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Emergency rules now in effect

Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.

Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.

Occasionally the Legislature grants emergency rule authority to an agency with a longer effective period than 150 days or allows an agency to adopt an emergency rule without requiring a finding of emergency.

Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.

Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency or a statement of exemption from a finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.

Copies of emergency rule orders can be obtained from the promulgating agency. The text of current emergency rules can be viewed at www.legis.state.wi.us/rsb/code.

Administration

Rules adopted revising **ch. Adm 10**, relating to cost benefit analyses of contractual services.

Exemption from Finding of Emergency

Section 8(2) of 2005 Wisconsin Act 89 requires the Department of Administration to promulgate rules required under ss. 16.004 (1), 16.705 (2) and 227.11 Stats., by using the emergency rulemaking procedure under s. 227.24, Stats., except that the department is not required to provide evidence that the emergency rule is necessary for the preservation of public peace, health, safety or welfare and is not required to provide a finding of emergency.

Plain language analysis

The department intends to promulgate a rule as required by Act 89 to require a cost-benefit analysis to be completed for each bid or request for proposal to compare the cost of contracting for services versus providing the services with state employees.

Currently, all state agencies and UW System campuses may contract for services between \$25,000 and \$200,000 if they can show that the services can be performed more economically or efficiently by such a contract than by state employees. Currently, if the contractual services would be greater than \$200,000, the contracting agency must complete a more rigorous and detailed cost/benefit analysis to demonstrate that the services can be performed more economically or efficiently by such a contract than by state employees. This more rigorous and detailed analysis includes

total cost, quality and nature of services required, specialized skills, time factors, risk factors and legal barriers. Act 89 requires agencies to conduct uniform cost-benefit analysis of each proposed contractual service procurement involving an estimated expenditure of more than \$25,000 in accordance with standards prescribed in the rules. Cost benefit-analysis is defined to include total cost, quality, technical expertise and timeliness of a service.

Act 89 also requires agencies to review periodically, and before any renewal, the continued appropriateness of contracting under each services agreement involving an estimated expenditure of more than \$25,000. Act 89 requires the department to complete an annual summary report of the cost benefit-analysis prepared by state agencies in the preceding fiscal year and recommendations for elimination of unneeded contractual service procurements and for the consolidation or resolicitation of existing contractual service procurements.

Publication Date: July 1, 2006

Effective Date: July 1, 2006

Expiration Date: See section 8 (2) of 2005 Wis. Act 89.

Hearing Date: August 11, 2006

Agriculture, Trade & Consumer Protection (2)

1. Rules adopted revising **ch. ATCP 136**, relating to mobile air conditioners; reclaiming or recycling refrigerant.

(1) The Wisconsin department of agriculture, trade and consumer protection ("DATCP") administers s. 100.45, Stats. DATCP has adopted rules under ch. ATCP 136 to implement s. 100.45, Stats. The current rules regulate the sale and installation of mobile air conditioner refrigerants, including "substitute refrigerants" such as R 134A. Among other things, the current rules prohibit the sale of mobile air conditioner refrigerants in containers holding less than 15 lbs. of refrigerant.

(2) On June 28, 2006, the Legislature's Joint Committee for Review of Administrative Rules (JCRAR) voted to suspend all current state rules related to the installation and sale of "substitute refrigerants" of any kind. This broad exemption will become effective on July 7, 2006 unless by that date DATCP adopts a narrower alternative exemption by emergency rule. The narrower exemption specified by JCRAR would apply only to the sale of the "substitute refrigerant" R 134A. The exemption would allow the sale of R 134A to the general public in "do-it-yourself" containers holding less than 15 lbs.

(3) DATCP is adopting this emergency rule for the sole purpose of preventing a broader JCRAR suspension of rules that currently prevent the release of mobile air conditioner refrigerant into the environment.

Publication Date: July 12, 2006

Effective Date: July 12, 2006

Expiration Date: December 9, 2006

Hearing Date: August 15, 2006

2. Rules adopted amending **s. ATCP 10.47 (2) (c) and (3) (b) 3.**, relating to minimum acreage requirements for farm-raised deer hunting preserves.

(1) The Wisconsin department of agriculture, trade and consumer protection (“DATCP”) administers state laws related to farm-raised deer. DATCP currently licenses deer farms and issues certificates for deer hunting preserves, pursuant to s. 95.55, Stats., and ch. ATP 10, Wis. Adm. Code.

(2) Current law generally prohibits deer hunting preserves smaller than 80 acres. However, 2005 Wis. Act 359 (enacted effective May 3, 2006) provides a limited “grandfather” exemption for certain white-tailed deer hunting preserves previously licensed by the Department of Natural Resources (“DNR”). Under Act 359, a white-tailed deer hunting preserve is exempt from the 80-acre minimum size requirement if, *among other things*, the acreage of the hunting preserve is “not less than the acreage subject to the deer farm license on December 31, 2002.” This rule clarifies that the “acreage subject to the deer farm license on December 31, 2002” means the *hunting* acreage subject to the deer farm license on December 31, 2002. Without this interpretation, Act 359 would have no practical effect and would be rendered a nullity.

(3) The “grandfather” exemption in Act 359 is limited to hunting preserve operators who apply by November 1, 2006. DATCP must act on applications within 90 business days. Action may affect an operator’s ability to operate during the 2006 hunting season. DATCP is adopting this rule as an emergency rule, in order to facilitate timely action on applications. DATCP could not adopt this rule by normal rulemaking procedures in time to implement Act 359.

Publication Date: October 9, 2006
Effective Date: October 9, 2006
Expiration Date: March 7, 2007
Hearing Date: November 13, 2006

Commerce (Financial Resources for Businesses and Communities, Chs. Comm 105 to 131)

Rule adopted creating **ch. Comm 131**, relating to diesel truck idling reduction grants.

Exemption from Finding of Emergency

The legislature by Section 9108 (1w) in 2005 Wisconsin Act 25, provides an exemption from a finding of emergency for the adoption of this rule.

The rules specify who is eligible for receiving a grant in this program for purchasing and installing diesel truck idling reduction equipment. Eligible costs are also specified, along with how to apply for the grants. Parameters for awarding the grants are likewise specified. These parameters include (1) disallowing grants to any applicant who is failing to comply with any conditions imposed on any previous grant received in this program; and (2) alerting applicants that the Department may (a) refuse to award grants for idling reduction equipment on truck tractors that do not have a sleeper berth, (b) annually allocate up to 25 percent of the grant funding to applicants who own and operate 50 or fewer truck tractors, and (c) set deadlines for submitting applications, and then prorate the awards to the applicants if the total funding requested in the applications exceeds the available revenue.

Publication Date: June 30, 2006
Effective Date: July 1, 2006
Expiration Date: November 28, 2006
Hearing Date: July 25, 2006

Corrections

A rule was adopted creating **s. DOC 332.19**, relating to a sex offender registration fee.

Finding of Emergency

The department of corrections finds that an emergency exists and that rules are necessary for the immediate preservation of public peace, health, safety and welfare. A statement of the facts constituting the emergency is: Under 2005 WI Act 25, the legislature authorized the department to establish a sex offender registration fee. If the rule is not created promptly and immediately, the department will not be able to collect the fees which are to be used to offset the costs of monitoring probationers, parolees, or persons on extended supervision, which could result in a lessening of supervision due to budget limitations.

The purpose of the emergency rule is to establish an annual sex offender registration fee to partially offset the costs of monitoring persons who are on probation, parole, or extended supervision. The permanent rule process has been started. However, the permanent rule process will take approximately nine months to complete. Emergency rules are necessary to respond promptly to the collection of fees while permanent rules are being developed.

Publication Date: June 8, 2006
Effective Date: June 8, 2006
Expiration Date: November 5, 2006
Hearing Date: July 18, 2006
Extension Through: January 3, 2007

Elections Board (2)

1. Rules adopted creating **s. EIBd 1.395**, relating to the use of funds in a federal campaign committee that has been converted to a state campaign committee and relating to the use of those converted funds whose contribution to the federal committee would not have been in compliance with Wisconsin law if the contribution had been made directly to a state campaign committee.

Finding of Emergency

The Elections Board finds that an emergency exists in the recent change in federal law that permits the transfer of the funds in a federal candidate campaign committee’s account to the candidate’s state campaign committee account and finds that a rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is as follows:

Since the Bi-Partisan Campaign Reform Act of 2002 (BICRA), transfers of funds from a federal campaign committee to a state campaign committee had not been authorized under federal law. In November, 2004, Congress amended the Federal Election Campaign Act, (H.R. 4818, s. 532 (3) and 532 (4), to permit the transfer of a federal candidate’s campaign committee’s funds to the candidate’s

state campaign committee, if state law permitted, and subject to the state law's requirements and restrictions.

Because of Congress' action in November, 2004, money which had not been available to a state committee under BICRA, and which might not have qualified for use for political purposes in a state campaign because of its source or because of other noncompliance with state law, could now be transferred to a state committee, if state law permitted. Wisconsin law, under the Board's current rule, s. EIBd 1.39, Wis. Adm. Code, allows for conversion of federal campaign committees, and their funds, to a state campaign committee without regard to the source of those funds and without regard to contribution limitations.

Restricting the use of such money to that money which has been contributed to the candidate's federal committee, under circumstances in which the contribution would have complied with Wisconsin law if it had been given directly to the Wisconsin campaign committee, is found to be in the public interest.

Publication Date: February 3, 2005
Effective Date: February 3, 2005*/**
Expiration Date: December 3, 2006
Hearing Date: May 18, 2005

* On February 9, 2005, the Joint Committee for Review of Administrative Rules suspended this emergency rule.

** The legislative session ended on July 12, 2006, with no action on the bill that would have sustained the suspension action.

- Rules were adopted creating s. EIBd 3.04, relating to election day registration and the requirement to provide a driver's license number or other form of identification to register at the polls.

Finding of Emergency

The Elections Board finds that an emergency exists in the 2002 change in federal law that requires persons who have been issued a current and valid driver's license to list that number in completing a voter registration application or their registration may not be processed.

In 2002, Congress enacted the Help America Vote Act to address problems and issues that surfaced in the 2000 presidential election. Section 303(a)(5)(A)(i) of the Act provided that "an application for voter registration for an election for Federal office may not be accepted or processed by a state unless the application includes – in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number." To comply with federal law, but also to avoid disenfranchising those Wisconsin election day registrants who have been issued a current and valid Wisconsin driver's license but do not provide that number on their registration form, the Board has adopted s. EIBd 3.04, providing for the issuance of a provisional ballot to those registrants, pursuant to s. 6.97, Stats. Under that statute, the provisional ballot will be counted if the registrant provides, by any means feasible, his or her driver's license number to the clerk of the municipality in which the registrant has voted, not later than 4:00 p.m., on the day following the election.

Previously, the Board's policy had been to process the election day registration of those registrants who failed to list their driver's license number on their registration application, if they had provided, on their registration form, a Wisconsin-issued Identification Card Number or the last four digits of their Social Security Number. Whether that policy complied with federal law had been in issue. Assuring that

Wisconsin's practice complies with federal law and obtaining that assurance before election day, by the promulgation of this emergency rule, is found to be in the public interest.

Publication Date: July 31, 2006
Effective Date: July 31, 2006
Expiration Date: December 28, 2006
Hearing Date: October 4, 2006

Emergency Management

Rule adopted creating **ch. WEM 7**, relating to disaster assistance for local governments.

Finding of Emergency

The Wisconsin Division of Emergency Management finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting an emergency is as follows:

- The 2005 Wis. Act 269 created the major disaster assistance program under Wis. Stats. § 166.03 (2) (b) 9. An annual appropriation of \$3,000,000 SEG A for fiscal years 2005–06 and 2006–07 was established under Wis. Stats. § 20.465 (3) (b) (s) from the petroleum inspection fund. These funds were provided to make payments to local units of government for damages and costs incurred as a result of a major catastrophe. This Act was made retroactive to January 1, 2005.

- The Act requires the Wisconsin Department of Military Affairs, through its Division of Emergency Management, to promulgate rules to implement and establish the application process and the criteria to determine eligibility under the major disaster assistance program. The Division will immediately begin the permanent rule-making process for establishing administrative rules for these payments, but cannot complete the required hearings and review of these rules prior to the lapse of funds retained in the major disaster assistance appropriation for fiscal year 2005–06.

- To ensure that appropriated funds for fiscal year 2005–06 are timely paid to local governmental units for damages and eligible costs incurred as a direct result of major catastrophes, emergency administrative rules must be established immediately.

Publication Date: June 8, 2006
Effective Date: June 8, 2006
Expiration Date: November 5, 2006
Hearing Date: August 14, 15, 16 & 17, 2006
Extension Through: December 4, 2006

Financial Institutions – Banking

Rules were adopted revising **ch. DFI—Bkg 77**, relating to pawnbrokers.

Finding of Emergency

The effect of 2005 Wisconsin Act 158 is that pawnbrokers licensed by the department under s. 138.09, Stats., are exempt from s. 138.10, Stats., effective October 1, 2006. Under statutory procedures, however, a permanent rule regulating these pawnbrokers is unlikely to be effective until mid-2007, leaving the public without the safeguards of the permanent rule until that time. Thus the preservation of public safety and welfare necessitates enacting the safeguards of the emergency rule until a permanent rule is in effect.

Publication Date: September 25, 2006
Effective Date: October 1, 2006
Expiration Date: February 28, 2007
Hearing Date: December 13, 2006
 [See Notice this Register]

Health and Family Services (2) (Health, Chs. HFS 110—)

1. Rules were adopted revising **chs. HFS 110 and 111**, relating to licensing emergency medical technicians and affecting small businesses.

Finding of Emergency

The Department of Health and Family Services finds that an emergency exists and that the adoption of an emergency rule is necessary for the immediate preservation of the public, health, safety and welfare.

The facts constituting the emergency are as follows:

In Wisconsin there are approximately 430 ambulance service providers. Approximately 80% are volunteer (not for profit) or owned by private for profit entities. The remaining 20% are government owned. A total of 129 ambulance service providers and 2,812 licensed individuals in 48 counties currently provide emergency medical services at the EMT–basic–IV (74) or EMT–provisional intermediate (55) level to approximately 2.65 million Wisconsin residents. The provider industry estimates that these ambulance service providers are losing approximately \$1.5 million dollars in reimbursement revenues annually due to the codification of the EMT–basic IV services in ch. HFS 110 as basic life support. The loss is likely to increase when the provisional EMT–intermediate is renamed EMT–basic IV effective July 1, 2006, and an estimated 95% of the individuals who are currently licensed and titled as provisional EMT–intermediate will be renamed EMT–basic IV. Ambulance service providers report that they cannot continue to cover the costs of training and operating at the advanced life support level of care while being reimbursed at the basic life support level of care. Consequently, the level of emergency medical services provided in over half of the state's 72 counties may be reduced or become non-existent unless changes are implemented.

To maintain the level of emergency medical services that are currently being provided and to avoid confusion about the skills and level of care provided by the EMT–basic IV licensee, the department in these emergency rules is changing the name of the EMT–basic IV license to EMT–intermediate technician and moving the licensing requirements to ch. HFS 111. These changes will allow ambulance service providers to charge for both at the higher rate of reimbursement. In addition, these emergency rules will modify the continuing education requirements under ch. HFS 110 to allow ambulance service providers flexibility in providing refresher training to EMT–basic licensees. This change will reduce financial and scheduling burdens on providers by allowing them to use their training dollars more cost effectively.

Publication Date: July 1, 2006
Effective Date: July 1, 2006
Expiration Date: November 28, 2006
Hearing Dates: July 25, 26 and 27, 2006

2. Rules adopted creating **ch. HFS 137**, relating to prescribing forms for use by physicians, technicians and tissue bank employees when removing organs and tissue, other than cardiovascular tissue from decedents.

Exemption from Finding of Emergency

The legislature by 2005 Wisconsin Act 230 requires these rules to be promulgated as emergency rules and exempts the Department from making a finding of emergency or providing evidence that these rules as emergency rules is necessary for the preservation of the public peace, health, safety, or welfare.

Plain language analysis:

The Department is required by 2005 Wisconsin Act 230 to appoint an advisory committee to assist the Department in prescribing, by rule, a form for removal of organs and a form for removal of tissue, other than cardiovascular tissue, for use by physicians, technicians, and tissue bank employees under section 157.06 (4m) (e) of the statutes, as created by Act 230. Section 157.06 (4m) (e), Stats., requires a physician who removes tissue or an organ from a decedent or a technician or tissue bank employee who removes tissue from a decedent under s. 157.06 (4m), Stats., to complete the form created by the Department and transmit the form to the coroner or medical examiner with jurisdiction over the decedent.

As required by section. 12. (1) (b) of Act 230, the Department intends to promulgate permanent rules that are substantially identical to the emergency rules.

Because these rules only prescribe forms, the Department will, as allowed under s. 227.23, Stats., promulgate these rules without adhering to the notice and public hearing requirements set forth under ch. 227, Stats. Also, as allowed under s. 227.23, Stats., the forms prescribed by the proposed rules will not be published in the Wisconsin administrative code or the Wisconsin Administrative Register, but will be listed by title and description with a statement as to how the forms may be obtained.

Publication Date: July 24, 2006
Effective Date: August 1, 2006
Expiration Date: December 29, 2006

Insurance (2)

1. Rules adopted creating **ss. Ins 9.25 (8) and 9.27 (4)**, Wis. Adm. Code, relating to preferred provider plan applicability dates and affecting small business plan limited exemption.

Finding of Emergency

The Commissioner of Insurance finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

The rule identifies a limited group of policies issued by licensed insurers offering preferred provider plans that do not comply with newly promulgated ch. Ins 9, Wis. Adm. Code. In compliance with the request of the Joint Committee for the Review of Administrative Rules (JCRAR), this rule must be issued as an emergency rule and permanent rule. It is not possible to complete the permanent rule process prior to the effective date of the chapter, January 1, 2007, therefore this emergency rule is necessary.

The commissioner has filed a notice of scope for drafting the permanent rule corresponding to this emergency rule and will continue with the permanent rule making process. It is

intended that one rule hearing can be held to comply with both the emergency rule and permanent rule requirements.

Publication Date: August 31, 2006
Effective Date: September 1, 2006
Expiration Date: January 29, 2007
Hearing Date: December 12, 2006
 [See Notice this Register]

2. Rules adopted revising s. **Ins 6.77**, relating to underinsured and uninsured motorist coverage in umbrella and commercial policies.

Finding of Emergency

The Commissioner of Insurance finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

These changes will modify the rule in light of the recent Supreme Court decisions, *Rebernick v American Family Mutual Ins Company*, 2006 WI 27 and *Rocker v USAA Casualty Ins Company*, 2006 WI 26. In *Rebernick*, the court held that s. 632.32 (4m), Stats, applies to personal umbrella policies. In *Rocker*, the court held that s. 632.32 (6) (a), Stats, applies to commercial general liability policies and commercial umbrella policies. These interpretations are inconsistent with current insurer practices and OCI's expectation of what would be covered in these types of policies.

Compliance with this interpretation would create significant, if not impossible compliance problems for insurers. Many insurers who write umbrella coverage do not write and are not even licensed to write automobile coverage. A second, difficult issue is that the limits for umbrella coverages are generally very high, \$1,000,000. It is unclear how an umbrella policy would reconcile these limits with the underlying auto policy and underinsured motorist coverage. For this reason, OCI had previously by rule exempted umbrella policies from the similar requirements of the uninsured motorist coverages in s. 632.32, Stats. For similar reasons, the same revision is being made for commercial liability policies.

Publication Date: September 29, 2006
Effective Date: September 29, 2006
Expiration Date: February 26, 2007
Hearing Date: December 11, 2006
 [See Notice this Register]

Natural Resources (Fish, Game, etc., Chs. NR 1—)

Rules adopted revising **ch. NR 10**, relating to the 2006 migratory game bird seasons.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid-August of each year. This

order is designed to bring the state hunting regulations to conformity with the federal regulations. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

Publication Date: August 31, 2006
Effective Date: August 31, 2006
Expiration Date: January 28, 2007
Hearing Date: October 11, 2006

Natural Resources (Environmental Protection – Water Regulation, Chs. NR 300—)

Rules adopted creating **ss. NR 328.31 to 328.36**, relating to shore erosion control on rivers and streams.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public health, safety and welfare. The Wisconsin Legislature enacted 2003 Wisconsin Act 118 to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

Act 118 identifies certain activities that may be undertaken as exempt from a permit, or under a general permit. There are no statutory exemptions for shore protection on rivers and streams. Without emergency rules to create general permits, all shore protection projects on rivers and streams require an individual permit with an automatic 30-day public notice. The required 30-day comment period will unnecessarily delay projects that otherwise could go ahead with prescribed conditions established in a general permit. To carry out the intention of Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish general permits to be in effect for the 2006 construction season, with specific standards for shore erosion control structures on rivers and streams.

Publication Date: May 5, 2006
Effective Date: May 8, 2006
Expiration Date: October 4, 2006
Hearing Date: June 13, 2006
Extension Through: December 2, 2006

Natural Resources (Environmental Protection – Hazardous Waste, Chs. NR 600—)

Rules adopted revising **chs. NR 660 to 665**, relating to hazardous waste management.

Exemption from Finding of emergency

The Department of Natural Resources finds that an emergency exists and the foregoing rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is:

In 2001, EPA proposed regulations to change the hazardous waste manifest requirements under the federal

Resource Conservation and Recovery Act (RCRA) to eliminate all state-specific manifest requirements and to require electronic submittal of the manifests. The EPA's final rule was published March 4, 2005, with correcting amendments published on June 16, 2005, and the effective date is September 5, 2006. The new regulations require the use of standardized manifest forms in all states and require certification from EPA in order to print the manifest forms. (Final action on the e-manifest was postponed.) Unlike most RCRA rules, this federal regulation will take effect, nation-wide, on the effective date. The new federal requirements will apply in all states, including Wisconsin, but will not override or supersede Wisconsin's state-specific hazardous waste manifest requirements. Accordingly, the potential exists for conflicting or additional state manifest requirements to exist beginning on that date, and the advantages of a single, uniform nationwide rule will be lost.

The normal administrative rulemaking process cannot be completed in time to conform Wisconsin's hazardous waste manifest requirements to the new EPA manifest regulations by their September 5, 2006 effective date. However, failure to adopt the new federal requirements as state rules by this date may cause legal uncertainty and potential confusion among hazardous waste generators, transporters and treatment, storage and disposal facility operators, as well as state regulatory program staff. This could interfere with interstate commerce and the orderly functioning of government, imposing unnecessary regulatory costs on Wisconsin individuals and businesses and out-of-state companies doing business in Wisconsin, to the detriment of the public welfare. More importantly, the potential confusion caused by different state and federal manifest requirements could lead to improper transportation and management of hazardous wastes, resulting in a threat to public health or safety and the environment.

Publication Date: September 2, 2006
Effective Date: September 5, 2006
Expiration Date: February 2, 2007
Hearing Date: September 26, 2006

Optometry Examining Board

A rule Was adopted creating **ch. Opt 8**, relating to continuing education.

Exemption from finding of emergency

2005 Wisconsin Act 297 section 58 states in part:

“(3) Continuing education rules. (b) ...Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the optometry examining board is not required to provide evidence that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.”

Plain language analysis

Chapter Opt 8 is being created to incorporate the continuing education requirements that optometrists must complete in order to renew their registrations. As a result of the changes made to ch. 449, Stats., by 2005 Wisconsin Act 297, all optometrist will now be required to complete 30 hours of continuing education. Previously, only optometrists who were certified to use diagnostic pharmaceutical agents (DPA) and therapeutic pharmaceutical agents (TPA) were required to complete continuing education course work.

Publication Date: November 8, 2006
Effective Date: November 8, 2006
Expiration Date: April 7, 2007
Hearing Date: December 7, 2006

Regulation and Licensing

Rules were adopted creating **chs. RL 164 and 165**, relating to a code of conduct and renewal requirements for substance abuse professionals.

Plain language analysis

The purpose of this emergency rule is to create a code of conduct to facilitate assumption of disciplinary proceedings as part of the transfer of the regulation of substance abuse professionals from the Department of Health and Family Services to the Department of Regulation and Licensing. The emergency rule also sets forth the requirements for renewal.

The Department of Regulation and Licensing must promulgate this emergency rule for the period before the effective date of the permanent rules as promulgated under Wis. Stats. s. 440.88 (3). Under the previous regulatory scheme, the Department of Health and Family Services and the Wisconsin Certification Board had established a code of conduct and restrictions on late renewals. This emergency rule continues the applicability of the rules until the department, with the advice of the Advisory Committee, can establish permanent rules.

Exemption from finding of emergency

Section 9140 (1q) of 2005 Wisconsin Act 25 states in part: “Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.”

Publication Date: April 15, 2006
Effective Date: April 15, 2006
Expiration Date: September 12, 2006
Hearing Date: June 27, 2006
Extension Through: January 9, 2007

Transportation (2)

1. Rules adopted creating **ch. Trans 515**, relating to contractual service procurement.

Exemption from finding of emergency

The Legislature, by Section 8 of 2005 Wis. Act 89, provides an exemption from a finding of emergency for the adoption of the rule.

Analysis Prepared by the Department of Transportation

The proposed rule requires a cost benefit analysis before procuring engineering or other specialized services under s. 84.01 (13), Stats., in excess of \$25,000 when those services are normally performed by state employees. The required analysis includes a comparison between the costs of contracting out and performing the services with state employees. The analysis also considers other subjective factors such as timeliness, quality and technical expertise.

Publication Date: July 1, 2006
Effective Date: July 1, 2006
Expiration Date: See section 8 (2) of 2005 Wis. Act 89
Hearing Date: August 8, 2006

2. Rules adopted revising **ch. Trans 276**, relating to allowing the operation of certain 2-vehicle combinations on certain highways without a permit.

Exemption from finding of emergency

The Legislature, by Section 7 of 2005 Wis. Act 363, provides an exemption from a finding of emergency for the adoption of the rule.

Plain language analysis

Section 348.07 (1), Stats., historically has limited vehicle lengths on Wisconsin highways to 65 feet. Section 348.07(2), Stats., allowed vehicles meeting the specifications of that subsection to operate without permits despite exceeding the 65-foot limit of subsection (1).

2005 Wis. Act 363 amended s. 348.07, Stats., and essentially made 75 feet the default permitted length on the state trunk highway system. Wisconsin's old default 65-foot overall length limit still applies on all local roads but only applies to state trunk highways that are designated as 65-foot restricted routes by the Department. This emergency rule making establishes a preliminary list of such "65-foot restricted routes."

Prior to Act 363, s. 348.07 (4), Stats., permitted the Department to designate "long truck routes" upon which no overall length limits apply. The Department designates the state's long truck routes in s. Trans 276.07. This rule making does not affect those longstanding designations.

The new "default" 75-foot overall length limit applies on state highways that are neither designated as 65-foot restricted routes under this rule making nor long truck routes under s. Trans 276.07.

Definitions have been added to the rule to make it easier to identify the nature of designations made by the Department in Ch. Trans 276.

In drafting this rule the Department noticed several items that it believes may be of special interest to the legislature and which, in the Department's view, deserve special legislative attention. First, Act 363 did not grant any authority for 75-foot vehicles using the new 75-foot routes to leave those routes to reach fuel, food, maintenance, repair, rest, staging, terminal or vehicle assembly facilities or points of loading or unloading. The Department does not believe this oversight was intentional and, on an emergency basis, has designated the intersection of each 75-foot route and any other highway as a long truck route under its authority in s. 348.07 (4), Stats. This will permit trucks to exceed the 65-foot default length limit on local roads to access such facilities and make deliveries. The Department encourages the legislature to consider statutorily establishing access rights for vehicles using 75-foot restricted routes.

The second consequence of Act 363 the Department has discovered in drafting this emergency rule is that one statute that formerly restricted double-bottom tractor-trailer combinations to the state's long-truck network was repealed by the deletion of the reference to s. 348.07 (2) (gm), Stats.,

by the Act's amendment of s. 348.07 (4), Stats. Under the amended statute, as revised by Act 363, it might appear to a reader that double bottom trucks of unlimited length may operate upon any highway in the state, including local roads and streets, without permits. Section 348.08 (1) (e), Stats., however, continues to provide that double-bottom trucks be restricted to highways designated by the department under s. 348.07 (4). WisDOT believes this provision continues to limit double-bottom operation to long truck routes designated by the Department under s. 348.07 (4), Stats. WisDOT would suggest the deleted reference to (2) (gm) in 348.07 (4), Stats., be re-inserted into the statute to avoid confusion.

Finally, the Department notes that s. 348.07, Stats., is becoming difficult to decipher from a legal standpoint because of the many amendments that have been made to it over the years. It may be that recodifying the statute for the purpose of clarification of the length limitations of Wisconsin law would be helpful to truck and long vehicle operators in this state.

Publication Date:	September 15, 2006
Effective Date:	September 15, 2006
Expiration Date:	See section 7 (2) of 2005 Wis. Act 363
Hearing Date:	October 4, 2006

Workforce Development

Rules adopted amending **s. DWD 59.07 (2) (d) 2.**, relating to grants supporting community child care initiatives.

Exemption from Finding of emergency

The Department of Workforce Development finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

Under the Grants Supporting Community Child Care Initiatives program, the Department distributes federal Child Care Development Funds to local governments and tribes. The funding period for the grants is the federal fiscal year of October 1 to September 30. The Department cannot release the 2006-2007 grants scheduled to begin October 1 until the change in this emergency rule is effective. These grants will provide \$2.5 million of federal funds to support activities such as accommodation of children with disabilities, education of providers, and staff retention strategies.

The change in this rule and other changes to Chapter DWD 59 are included in a proposed permanent rule that is expected to be effective by the end of the year.

Publication Date:	October 2, 2006
Effective Date:	October 2, 2006
Expiration Date:	March 1, 2007
Hearing Date:	October 26, 2006

Scope statements

Agriculture, Trade and Consumer Protection

Subject

Technical rule changes.

Administrative code reference. This rule will make minor changes to a number of administrative code chapters administered by DATCP.

Objective of the rule. This rule will make minor technical changes and updates to a variety of current rules.

Policy Analysis

The technical changes the department proposes to make include the following:

- Update technical standards incorporated by reference in current rules (new editions of technical references cited in current rules).
- Correct erroneous and obsolete citations and cross-references.
- Correct typographical errors.
- Make non-substantive organizational and drafting changes.
- Make other minor changes to current rules.

The technical changes will not pose significant policy issues.

Entities affected by the rule

The proposed technical changes to current rules will not have a significant impact on persons covered by those rules. There will be no adverse impact on business or local government.

Policy Alternatives

The technical changes contained in the rule do not involve any significant policy issues.

Staff time required

DATCP will use less than .1 FTE staff time to develop and adopt the technical changes included in this rule. This includes research, drafting, preparing related documents, holding public hearings, and communicating with affected persons and groups. DATCP will use existing staff to develop and adopt this rule.

DATCP Board Authorization

DATCP may not begin drafting this rule until the DATCP Board approves this scope statement. The Board may not approve this scope statement sooner than 10 days after this scope statement is published in the Wisconsin Administrative Register. If the Board takes no action on the scope statement within 30 days after DATCP presents the scope statement to the Board, the scope statement is considered approved. Before DATCP holds public hearings on this rule, the Board must approve the hearing draft. The Board must also approve the final draft rule before DATCP adopts that rule.

Agriculture, Trade and Consumer Protection

Subject

Atrazine Pesticide Applications.

Administrative Code Reference: Chapter ATPC 30, Wis. Adm. Code (Existing). DATCP may renumber and reorganize this rule.

Objective of the rule. Regulate the use of atrazine pesticides to protect groundwater and assure compliance with Wisconsin's Groundwater Law. Update current rule to reflect groundwater-sampling results related to atrazine obtained during the past year. Reorganize current rule to accommodate any new or expanded prohibition area (PA) and to make it easier to identify to the Lower Wisconsin River Valley Atrazine PA. Renumber Appendix A in the current rule to simplify the numbering system.

Policy Analysis

DATCP must regulate the use of pesticides to assure compliance with groundwater standards under ch. 160, Stats. Groundwater standards are established by the Department of Natural Resources under ch. NR 140, Wis. Adm. Code. DNR has established a groundwater enforcement standard of 3 µg/liter for atrazine and its chlorinated metabolites.

DATCP must prohibit atrazine uses that result in groundwater contamination levels that exceed the DNR enforcement standard under s. 160.25, Stats. DATCP must prohibit atrazine use in the area where groundwater contamination has occurred unless DATCP determines to a reasonable certainty, based on the greater weight of credible evidence, that alternative measures will achieve compliance with the DNR enforcement standard.

Currently, under ch. ATPC 30, Wis. Adm. Code, the use of atrazine is prohibited in 102 PAs (approximately 1,200,000 acres), including large portions of the Lower Wisconsin River Valley, Dane County and Columbia County. The current rules also restrict atrazine use rates and handling practices, including the timing of applications on a statewide basis. The statewide restrictions are designed to minimize the potential for groundwater contamination, as required under s. 160.25, Stats.

Over the next year, DATCP may identify additional wells containing atrazine and its chlorinated metabolites at and above the current DNR enforcement standard. In order to comply with ch. 160, Stats., DATCP must take further action to prohibit or regulate atrazine use in the areas where these wells are located. DATCP proposes to amend ch. ATPC 30, Wis. Adm. Code to add PAs or take other appropriate regulatory action in response to any new groundwater findings.

Comparison with federal regulations

Pesticides and pesticide labels must be registered with the federal Environmental Protection Agency ("EPA"). Persons may not use pesticides in a manner inconsistent with the federal label.

The current federal label for atrazine advises that atrazine should not be used on permeable soils with groundwater near the soil surface. Wisconsin has clearer, more definite restrictions on atrazine use, based on actual findings of groundwater contamination in this state.

EPA is proposing federal rules that would require states to create pesticide management plans for pesticides that have the potential to contaminate groundwater. Wisconsin's current

regulatory scheme for atrazine pesticides would likely comply with the proposed federal rules.

Entities affected by the rule

Residents whose private wells are located in the proposed or expanded PA would be affected by the proposed rule. Atrazine users in a new or expanded PA would be affected by the proposed rule. Dealers, distributors and manufacturers of atrazine who service areas of proposed expanded PAs would be affected by a reduction in the sales of atrazine. Commercial application services would be required to know where all the atrazine PAs are located to avoid illegal applications. The proposed action is not expected to have a measurable effect on consumer food costs, specifically on corn-derived products.

Policy Alternatives

No Change. If DATCP takes no action, current rules will remain in effect. However, DATCP would take no new regulatory action in response to new groundwater findings obtained this year. This would not adequately protect groundwater in the newly discovered contaminated areas, nor would it meet DATCP's statutory obligations.

Statutory Alternatives

None at this time.

Statutory authority

DATCP proposes to revise ch. ATCP 30, Wis. Adm. Code, under authority of ss. 93.07, 94.69, and 160.19 through 160.25, Stats.

Staff time required

DATCP estimates that it will use approximately 0.5 FTE staff to develop this rule. This includes investigation, drafting, preparing related documents, coordinating advisory committee meetings, holding public hearings and communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

DATCP Board Authorization

DATCP may not begin drafting this rule until the Board of Agriculture, Trade and Consumer Protection (Board) approves this scope statement. The Board may not approve this scope statement sooner than 10 days after this scope statement is published in the Wisconsin Administrative Register. If the Board takes no action on the scope statement within 30 days after the scope statement is presented to the Board, the scope statement is considered approved. Before DATCP holds public hearings on this rule, the Board must approve the hearing draft. The Board must also approve the final draft rule before DATCP adopts the rule.

Agriculture, Trade and Consumer Protection

Subject

Agricultural Producer Security (License Fees and Technical Changes).

Administrative Code Reference: Chapters ATCP 99, 100 and 101, Wis. Adm. Code.

Statutory authority

Sections 93.07 (1), 126.11 (4), 126.26 (3), 126.41 (3), 126.42 (6), 126.56 (4), and 126.81 (2), Stats.

Objective of the rule. DATCP currently administers the Agricultural Producer Security program under Chapter 126, Stats. This program helps protect agricultural producers against catastrophic financial defaults by milk contractors, grain dealers, grain warehouse keepers and vegetable contractors (collectively referred to as "contractors").

Contractors must be licensed by DATCP, and most contractors pay assessments to an agricultural producer security fund administered by DATCP. Licensed contractors also pay license fees to cover DATCP's cost to administer the program.

Current license fees are set by the Agricultural Producer Security Law, ch. 126, Stats., enacted in 2001. However, that law incorporated the same license fees established under prior law. Grain dealer and grain warehouse keeper license fees have not actually changed since 1997. Milk contractor license fees have not changed since 1994. Vegetable contractor license fees have not changed since 1998, except that 2005 Wisconsin Act 80 modified license fees for certain potato buyers who opt out of the security program.

DATCP may adjust license fees by rule, but has not done so to date. Current fees are no longer adequate to fund the Agricultural Producer Security Program. DATCP proposes to increase license fees by rule, as appropriate, to provide an adequate level of program funding. DATCP may also make minor technical changes to current rules, including possible definition changes and changes to incorporate the provisions of 2005 Wisconsin Act 80. This rule will *not* affect contractor assessment payments to the agricultural producer security fund.

Policy Analysis

The Agricultural Producer Security Program helps secure approximately \$10 billion in annual payment obligations to Wisconsin agricultural producers. Contractors who procure milk, grain or processing vegetables from producers must be licensed by DATCP.

Most contractors contribute to an agricultural producer security fund administered by DATCP (the fund currently has a balance of over \$7 million). In the event of a financial default, DATCP may reimburse affected producers from the fund. Fund contributions are based on the contractor's size, financial condition and risk practices. Contractors must file annual financial statements with DATCP.

Effective administration of the agricultural producer security program is critical for managing potentially large financial risks. DATCP performs the following functions, among others:

- Reviews and processes annual contractor license applications, and monitors compliance with license requirements.

- Reviews confidential annual financial statements, to determine contractor compliance with financial standards.

- Audits accounts, records and grain inventories, to verify contractor claims and ensure compliance with financial standards.

- Administers the Agricultural Producer Security Fund (current balance over \$7 million).

- In the event of a financial default, conducts default proceedings to determine the amounts owed to producers and to reimburse producer claims as appropriate. DATCP may litigate competing financial claims.

- Attempts to recover, from defaulting contractors, reimbursement of fund payments to affected producers.

- Adopts and amends rules to regulate contractor practices, and establish fund contribution amounts.

- Investigates law violations, and takes compliance action as necessary.

Substantially all costs to administer the program, including costs for staff, supplies and support, are currently funded by contractor license fees. These fees are separate from

contractor assessments paid to the Agricultural Producer Security Fund (fund assessments may not be used for program administration).

License fees are based on the amount of milk, grain or vegetables that the contractor procures from producers. License fee levels have not increased for many years. However, license fee revenues have increased slightly, because contractor procurement amounts and grain storage capacity have generally increased over time.

Until recently, this modest growth in fee revenue (not fee levels) was adequate to maintain a positive balance in the administration portion of the program. However, the 2003–2004 Biennial Budget Act eliminated virtually all general tax dollar (GPR) funding for the program. That made it necessary to transfer 2.9 full–time–equivalent staff positions (FTE’s), and their supply and support costs, from GPR to license fee funding. The 2.9 FTE’s include 2.0 FTE grain auditors and 0.9 FTE from 2 administrative support positions. This has had a substantial impact on administrative account balances in the grain security program.

DATCP maintains separate accounts of the revenues, expenditures and cash balances for each of the 4 license types (grain dealer, grain warehouse keeper, milk contractor and vegetable contractor). Expenses have exceeded revenues for the program as a whole over the last 4 years. Until fiscal year 2006, the program’s cash balance has been adequate to absorb the loss. The shortfalls have been especially severe in the grain dealer and grain warehouse keeper accounts, which now have significant negative cash balances. The vegetable contractor account also has a negative balance, though to a smaller degree.

The milk contractor account has a positive, but declining, balance at this time. DATCP is currently using milk contractor license fee revenues to cover shortfalls in the grain and vegetable administrative accounts. Milk contractors are, in that sense, “subsidizing” the grain and vegetable security programs.

DATCP proposes to raise license fees to provide critical program funding and to correct current inequities between industry groups. The amount of fee increases may vary between industry groups, depending on current account balances and program costs. DATCP may also review fee equity between contractors within industry groups (for example, the relative burden on large vs. small contractors).

Comparison with federal regulations

There is no federal program to secure milk contractor payments to producers. However, there are federal programs relating to grain warehouses and vegetable contractors. Federal program coverage differs from Wisconsin program coverage, so there is little if any duplication.

Grain Warehouses

The United States Department of Agriculture (USDA) administers a producer security program for federally licensed grain *warehouses*. Federally licensed warehouses are exempt from state grain *warehouse* licensing and security requirements. State–licensed warehouses are likewise exempt from federal licensing and security requirements.

The federal program focuses on grain *storage*. Unlike the Wisconsin program, the federal program provides little or no protection related to grain *dealing* (buying grain from producers, with or without storage). However, USDA is

proposing to regulate grain *dealing* (“merchandising”) by federally licensed grain warehouse keepers. If that proposal becomes law, federally licensed warehouse keepers who engage in grain dealing would likely be exempt from state grain *dealer* licensing. DATCP rules might need to recognize that exemption, if it occurs.

Vegetable Contractors

The Perishable Agricultural Commodities Act (PACA) regulates contractors who buy unprocessed, fresh market vegetables from producers. Wisconsin’s vegetable security program applies mainly to *processing* vegetables, so there is little overlap with PACA (which applies to *fresh market* vegetables). 2005 Wisconsin Act 80, which allowed potato buyers covered by PACA to opt out of participation in the Wisconsin Producer Security Fund, further limited potential overlap between state and federal programs.

Entities affected by the rule

This rule may affect grain, milk and vegetable contractors who are licensed under Wisconsin’s agricultural producer security program. This rule may increase license fees for affected contractors. The fee increase may vary by contractor type.

Policy Alternatives

DATCP cannot continue operating this regulatory program on the current license fee revenue. One policy alternative would be for the Legislature and the Governor to resume partially funding the program with GPR (tax dollars). However, that appears unlikely.

Another alternative would be to reduce critical administrative functions, such as financial statement reviews and grain warehouse audits. However, that would put agricultural producers at great financial risk and threaten the solvency of the agricultural producer security fund. It could also have an adverse impact on competing grain, milk and vegetable contractors.

Statutory Alternatives

This proposed rule would modify license fees currently contained within the statutes. DATCP has specific authority to modify these fees by administrative rule. However, they could also be modified by the Legislature.

Staff time required

DATCP estimates that it will use approximately 1.0 FTE staff to develop this rule. This includes time required for investigation and analysis, rule drafting, preparing related documents, coordinating advisory committee meetings, holding public hearings and communicating with affected persons and groups. DATCP will use existing staff to develop this rule

DATCP Board Authorization

DATCP may not begin drafting this rule until the Board of Agriculture, Trade and Consumer Protection (Board) approves this scope statement. The Board may not approve this scope statement sooner than 10 days after this scope statement is published in the Wisconsin Administrative Register. If the Board takes no action on the scope statement within 30 days after the scope statement is presented to the Board, the scope statement is considered approved. Before DATCP holds public hearings on this rule, the Board must approve the hearing draft. The Board must also approve the final draft rule before the department adopts the rule.

Submittal of rules to legislative council clearinghouse

*Please check the Bulletin of Proceedings – Administrative Rules
for further information on a particular rule.*

Commerce

On November 10, 2006, the Department of Commerce submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects chs. Comm 2 and others and relates to plan review processing times.

Agency Procedure for Promulgation

A public hearing is required and will be held on December 19, 2006. The organization unit responsible for the promulgation of the rule is the Safety and Buildings Division.

Contact Person

Jim Quast
Program Manager
(608) 266-9292
jim.quast@wisconsin.gov

Commerce

On November 10, 2006, the Department of Commerce submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects chs. Comm 14 and 60 to 66 and relates to fire prevention code and the Wisconsin Commercial Building Code.

Agency Procedure for Promulgation

A public hearing is required and will be held on December 21, 2006. The organization unit responsible for the promulgation of the rule is the Safety and Buildings Division.

Contact Person

Jim Quast
Program Manager
(608) 266-9292
jim.quast@wisconsin.gov

Financial Institutions–Banking

On November 9, 2006, the Department of Financial Institutions–Banking submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order relates to any person licensed under s. 138.09, Stats., and operating as a pawnbroker.

Agency Procedure for Promulgation

A public hearing is required and will be held on December 13, 2006. The organization unit responsible for the promulgation of the rule is the Department of Financial Institutions, Division of Banking.

Contact Person

Mark Schlei
Deputy General Counsel
(608) 267-1705

Financial Institutions–Banking

On November 9, 2006, the Department of Financial Institutions–Banking submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order relates to nonjudicial enforcement and surrender of collateral.

Agency Procedure for Promulgation

A public hearing is required and will be held on December 13, 2006.

The organization unit responsible for the promulgation of the rule is the Department of Financial Institutions, Office of Consumer Affairs.

Contact Person

Mark Schlei
Deputy General Counsel
(608) 267-1705

Financial Institutions–Corporate and Consumer Affairs

Pursuant to s. 227.14 (4m), notice is hereby provided that on November 9, 2006, the Department of Financial Institutions, Division of Corporate and Consumer Affairs submitted to the Legislative Council

Analysis

The proposed rule-making order repeals and recreates s. DFI-CCS 5.04, relating to UCC search requests.

Agency Procedure for Promulgation

A public hearing is required and will be held on December 13, 2006. The organization unit responsible for the promulgation of the rule is the Department of Financial Institutions, Division of Corporate and Consumer Affairs.

Contact Person

Mark Schlei
Deputy General Counsel
(608) 267-1705

Insurance

On November 3, 2006, the Office of the Commissioner of Insurance submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

These changes will affect s. Ins 6.77, Wis. Adm. Code, relating to underinsured and uninsured motorist coverage in umbrella and commercial policies and affecting small business.

Agency Procedure for Promulgation

A public hearing will be held on December 11, 2006.

Contact Person

A copy of the proposed rule may be obtained from the WEB site at:

<http://oci.wi.gov/ocirules.htm>

or by contacting Inger Williams, Services Section, Office of the Commissioner of Insurance, at (608) 264-8110. For additional information, please contact Robert Luck at (608) 266-0082 or e-mail at Robert.Luck@oci.state.wi.us in the OCI Legal Unit.

Insurance

On November 8, 2006, the Office of the Commissioner of Insurance submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

These changes will affect ss. Ins 9.25 (8) and 9.27 (4), relating to preferred provider plan applicability dates and affecting small businesses.

Agency Procedure for Promulgation

A public hearing will be held on December 12, 2006.

Contact Person

A copy of the proposed rule may be obtained from the WEB site at:

<http://oci.wi.gov/ocirules.htm>

or by contacting Inger Williams, Services Section, Office of the Commissioner of Insurance, at (608) 264-8110. For additional information, please contact Robert Luck at (608) 266-0082 or e-mail at Robert.Luck@oci.state.wi.us in the OCI Legal Unit.

Regulation and Licensing

On November 14, 2006, the Department of Regulation and Licensing submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects ch. RL 174, and relates to the registration of sanitarians.

Agency Procedure for Promulgation

A public hearing is required and will be held on December 13, 2006 at 9:00 a.m. in Room 121C at 1400 East Washington Avenue, Madison, Wisconsin.

Contact Person

Pamela Hack, Paralegal

Office of Legal Counsel

(608) 266-0495

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Rule-making notices

Notice of Hearing

Commerce

[CR 06-119]

NOTICE IS HEREBY GIVEN that pursuant to ss. Sections 101.12 and 145.02 (g) and 145.26, Stats., the Department of Commerce will hold a public hearing on proposed rules under chapters Comm 2 and others relating to plan review processing times.

The public hearing will be held as follows:

Date and Time: Tuesday, **December 19, 2006** at 1:00 p.m.

Location: Room 3C, Thompson Commerce Center

201 West Washington Avenue

Madison

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until December 29, 2006, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to Jim Quast, at the Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689, or Email at jim.quast@wisconsin.gov.

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or (608) 264-8777 (TTY) at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon a request from a person with a disability.

Analysis

1. Statutes Interpreted. Sections 101.12, 145.02 (g), 145.175 and 145.26, Stats.

2. Statutory Authority. Sections 101.12, 145.02 (g), 145.175 and 145.26, Stats.

3. Related Statute or Rule. Section 227.116, Stats.

4. Explanation of Agency Authority. Chapters 101 and 145, Stats., grant the Department general authority for protecting the health, safety and welfare of the public by establishing reasonable and effective safety standards for the construction, repair and maintenance of dwellings, public buildings and places of employment and for the protection of the waters of the state.

5. Summary of Proposed Rules. The Division of Safety and Buildings within the Department of Commerce is responsible for administering and enforcing safety and health rules relating to the construction and inspection of dwellings, public buildings and places of employment.

The proposed rules consist of miscellaneous changes in chapter Comm 2 and various other chapters in order to address inconsistencies related to the administrative processing of plan submittals to the Safety and Buildings Division.

The proposed rules also correct a typographical error in recently enacted rules pertaining to continuing education

obligations for the renewal registrations as automatic fire sprinkler contractor-maintenance. The proposed rules will require 12 hours of continuing education instead of 24 hours.

6. Summary of, and Comparison with, Existing or Proposed Federal Regulations. The activities to be regulated by the rule are specific to the Department's administrative procedures relating to plan review processing times. There are no existing or proposed federal regulations that address the activities to be regulated by the rule.

7. Comparison with Rules in Adjacent States. The proposed rules consist of administrative changes specific to the Department's procedures relating to plan review processing times. An internet review of Illinois, Iowa, Michigan and Minnesota building and construction rules did not reveal processing times for similar plan review activities.

8. Summary of factual Data and Analytical Methodologies.

A periodic Legislative Audit of the Department's administration of the Multifamily Code program included a review of the Safety and Buildings Division's handling of plan reviews relative to codified processing times. An evaluation by the Division has concluded that the code provisions do not reflect how processing times are determined in light of current management practices and technological improvements that have occurred over the past several years to facilitate the submittal process.

9. Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of Economic Impact Report.

The proposed rules will not have an impact on small business in that the revisions clarify Department plan review processes. An economic impact report was not required pursuant to s. 227.137, Stats.

The proposed rules and an analysis of the proposed rules are available on the Internet at the Safety and Buildings Division Web site at www.commerce.wi.gov/SB/. Paper copies may be obtained without cost from Roberta Ward, at the Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701-2689, or Email at roberta.ward@wisconsin.gov, or at telephone (608) 266-8741 or (608) 264-8777 (TTY). Copies will also be available at the public hearing.

Environmental analysis

Notice is hereby given that the Department has considered the environmental impact of the proposed rules. In accordance with chapter Comm 1, the proposed rules are a Type III action. A Type III action normally does not have the potential to cause significant environmental effects and normally does not involve unresolved conflicts in the use of available resources. The Department has reviewed these rules and finds no reason to believe that any unusual conditions exist. At this time, the Department has issued this notice to serve as a finding of no significant impact.

Initial Regulatory Flexibility Analysis

1. Types of small businesses that will be affected by the rules.

The proposed rule revisions will affect individuals and businesses that submitted plans for review to the Department Commerce, Safety and Buildings Division. Plans required to be submitted to Division for construction or installation

include, commercial buildings, plumbing, elevators, boilers, fire protection systems, amusement rides, swimming pools, ski lifts and tows, private onsite wastewater treatment systems and manufactured home communities. This would involve a variety of businesses, those engaged in engineering, architecture, and construction that typically submit plans on behalf of owners of any of the aforementioned structures or components thereof.

2. Reporting, bookkeeping and other procedures required for compliance with the rules.

The proposed rule revisions do not necessitate any new or additional recording, bookkeeping or other procedures for compliance.

3. Types of professional skills necessary for compliance with the rules.

The proposed rule revisions do not necessitate any new or additional professional skills for compliance.

4. Rules have a significant economic impact on small businesses.

No. Rules not submitted to Small Business Regulatory Review Board

Fiscal Estimate

No fiscal impact anticipated.

The small business regulatory coordinator for the Department of Commerce is Carol Dunn, who may be contacted at telephone (608) 267-0297, or Email at carol.dunn@wisconsin.gov.

Notice of Hearing Commerce [CR 06-120]

NOTICE IS HEREBY GIVEN that pursuant to chapter 101, Stats., the Department of Commerce will hold a public hearing on proposed rules under chapters Comm 14 and Comm 60 to 66 relating to the Fire Prevention Code and the Commercial Building Code.

The public hearing will be held as follows:

Date and Time:

Thursday, **December 21, 2006** at 9:30 a.m.

Location: First Floor Conference Room

Thompson Commerce Center

201 West Washington Avenue

Madison

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until January 5, 2007, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to James Quast, at the Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689, or Email at jquast@commerce.state.wi.us.

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or (608) 264-8777 (TTY) at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape

format will, to the fullest extent possible, be made available upon a request from a person with a disability.

Analysis

1. Statutes Interpreted

Sections 101.02 (1), (3), (6), (7), (7m), and (15); 101.025; 101.027; 101.11; 101.12; 101.13; 101.132; 101.135; 101.14 (1), (2), (4), and (4m); 101.141; 101.15 (2) (e); 101.575; 101.73; 101.973 (1); and 167.10 (6m), Stats.

2. Statutory Authority

Sections 101.02 (1), (3) and (15); 101.025; 101.027; 101.13; 101.132; 101.135; 101.14 (1), (2), and (4); 101.141; 101.575; and 101.973 (1), Stats.

3. Related Statute or Rule

Chapters Comm 2, Comm 5, Comm 10, Comm 16, Comm 40, Comm 41, and Comm 45

4. Explanation of Agency Authority

Under the statutes cited, the Department of Commerce protects public health, safety, and welfare by promulgating comprehensive requirements for design, construction, use and maintenance of public buildings and places of employment, and for fire departments. The Department also updates these requirements as necessary to be consistent with nationally recognized standards that are incorporated by reference into the Wisconsin Commercial Building Code (WCBC) and the Wisconsin Fire Prevention Code, specifically, the building code requirements developed by the *International Code Council*[®] (ICC) and the fire prevention requirements developed by the National Fire Protection Association (NFPA).

5. Summary of Proposed Rules

5A. Summary of Chapters Comm 7, 9 and 14 Relating to Fire Prevention and Comm 60 to 66 Relating to the Commercial Building Code

Currently, the Department adopts by reference the 2000 editions of the ICC suite of building codes – the *International Building Code*[®] (IBC), the *International Energy Conservation Code*[®], (IECC), the *International Mechanical Code*[®] (IMC) and the *International Fuel Gas Code*[®] (IFGC) – and makes Wisconsin modifications to these codes within the WCBC. The Department also adopts by reference the 2000 edition of the NFPA fire prevention code, NFPA 1. The department proposes to adopt the 2006 editions of these ICC and NFPA codes.

Many of the current Wisconsin modifications under the WCBC are proposed to be repealed as a result of changes occurring in the 2006 editions of ICC codes. The proposed update of the WCBC would apply to design and construction of new buildings and modifications to existing buildings.

The following summaries identify the substantive changes based on the topic area reviewed by the Department's various advisory councils.

5B. General Requirements Under the IBC

The IBC general requirements that require elevators to accommodate an ambulance-type stretcher in buildings 4 or more stories in height have been revised to increase the minimal length from 76 inches to 84 inches. This dimensional increase will require the use of a 4,000 pound elevator to satisfy the requirement. Currently, a 2500 pound elevator is acceptable to accommodate the 76-inch ambulance-type stretcher. The current Wisconsin modification to require ambulance-type stretchers in all health care facilities and outpatient clinics regardless of the height of the building will be eliminated, and the IBC requirement to provide the larger elevators only in those buildings 4 stories or more in height will be maintained without modification.

5C. Fire Protection Systems

The prominent change with incorporating the latest edition of the IBC relating to fire protection systems is the requirement for automatic fire sprinkler system protection throughout all buildings with a Group R (Residential Occupancies) fire area, regardless of the number of dwelling units or the size of the building. Similar to the IBC, a proposed Wisconsin provision would not require providing sprinklers throughout all townhouses of 3 stories or less. For these types of townhouses, the Wisconsin proposed modifications reflect the statutory options and thresholds under s. 101.14 (4m), Stats., requiring either two-hour fire resistance construction or sprinkler protection when the building contains more than 20 dwelling units or the accumulative floor areas of the dwelling units exceed 16,000 square feet.

Rules are proposed to clarify the necessity of providing automatic fire sprinkler protection for buildings greater than 60 feet in height as required by the statutes. A proposed Wisconsin modification will address the protection of exterior balconies and ground-floor patios serving dwelling units in buildings of Type V construction and protected by a 13R sprinkler system

5D. Fire Safety

Some of the current Wisconsin modifications to the IBC relating to fire safety, under sections Comm 62.0706 to 62.0715, are being eliminated because they are covered under the latest edition of the IBC. No new Wisconsin modifications are being added in this topic area.

5E. Means of Egress and Accessibility

The major change starting with the 2003 edition of the IBC relating to means of egress (IBC chapter 10) was the reorganization and renumbering of the requirements to be more user-friendly.

Many of the current Wisconsin modifications to the IBC relating to means of egress are being eliminated because they are covered under the more recent editions of the IBC. Since most of the section numbers changed with the renumbering of the IBC, the current Wisconsin modifications that will be maintained have been repealed and recreated using the new IBC numbering system. No new Wisconsin modifications are being added. [See sections Comm 62.1004 to Comm 62.1018.]

The major change starting with the 2003 edition of the IBC relating to accessibility was the inclusion of fair housing design requirements, for consistency with the federal fair housing law. The Wisconsin modifications to the accessibility requirements are repealed and recreated, since the reprinting of the entire chapter to include the federal fair housing requirements is no longer necessary. Many of the retained Wisconsin modifications are those based on Wisconsin fair housing laws and other requirements relating to clear floor space and maneuverability within bathrooms in dwelling units and sleeping units. No new Wisconsin modifications are being added. [See Comm 62.1101 to Comm 62.1110.]

5F. Structural

Some of the current Wisconsin modifications to the IBC relating to structural requirements are being eliminated because they are addressed under the more recent editions of the IBC; or they are no longer needed, for other reasons. One current modification that is to be eliminated will result in the adoption of requirements in IBC sections 1711 to 1714 for structural tests. These tests do not duplicate the supervising-professional process under s. Comm 61.40, and provide information and assurance when utilizing unusual construction practices or components.

5G. Energy

Many of the current Wisconsin modifications to the IECC are being eliminated, because the 2006 edition of the IECC and the 2004 edition of the ASHRAE 90.1 standard reflect these requirements. The 2006 edition of the IECC has been significantly revised in comparison to the 2000 edition. Proposed by the U.S. Department of Energy, the energy conservation requirements for residential buildings have been simplified in order to achieve greater compliance and enforcement. The IECC energy conservation requirements regarding commercial buildings reflect the 2004 edition of the ASHRAE 90.1 Standard, *Energy Standard for Buildings Except Low-Rise Residential Buildings*. In light of these IECC revisions, the Department is proposing to eliminate many of the Wisconsin modifications currently under chapter Comm 63, subchapter III. The 2006 IECC provisions and proposed Wisconsin modifications include:

Prescriptive envelope requirements for low-rise residential buildings with no limit on the amount of glazed openings.

A new residential energy performance section.

For commercial buildings, the required use of energy recovery ventilation systems in certain situations where individual fan systems have a design supply air capacity of 5,000 cfm or greater.

For commercial buildings, the triggers for using economizers is equal to or greater than 33,000 Btu/h for simple cooling systems and equal to or greater than 54,000 Btu/h for complex cooling systems.

5H. HVAC

The 2006 editions of the IMC and the IFGC are proposed to serve as the basis for the Commercial Building Code's requirements under chapters Comm 64 and 65 concerning heating, ventilation and air conditioning. A number of current Wisconsin modifications under these chapters are being eliminated in light of the 2003 and 2006 revisions for the IMC and IFGC. The proposed rules do not significantly alter the current Wisconsin modifications regarding ventilation. However, the proposed rules do provide some flexibility in allowing the use of engineered natural ventilation as an option. Other IMC revisions, IFGC revisions and proposed Wisconsin modifications include:

Expanding the time period defining seasonal buildings from May 1 through October 15 with respect to not having to provide heat.

Referencing the 2001 edition of the American Institute of Architects *Guidelines for Design and Construction of Hospital and Health Care Facilities* regarding heating and ventilation requirements.

Providing the option to determine the minimum kitchen hood exhaust quantities through engineering analysis.

Incorporating chapter 12 of the IMC regarding hydronic piping.

Establishing provisions for gaseous hydrogen systems.

5I. Alteration and Change of Occupancy

The Department is proposing to incorporate the 2006 edition of the *International Existing Buildings Code*[®] (IEBC) as part of the WCBC. The IEBC provides clarity in identifying which code provisions apply for repairs, alterations, additions and changes in occupancies to existing buildings or portions thereof. The IEBC and the associated Wisconsin modifications will be incorporated as chapter Comm 66 under the Commercial Building Code. The IEBC also includes provisions concerning historic buildings. In light of this, the current administrative rules under chapter Comm 70, Historic Buildings, are proposed to be eliminated.

The IEBC also provides an evaluation methodology as an option to determine compliance for repairs, alterations, additions and changes in occupancy.

5J. Fire Prevention

The major change from the 2000 edition of the NFPA fire prevention code, NFPA 1, to the 2006 edition was to enroll numerous requirements from other NFPA codes and standards that previously were included only through cross-references to those codes and standards. In addition, many of the current Wisconsin modifications to NFPA 1 are being eliminated because they are covered under the 2006 edition, or they are no longer needed, for other reasons. For example, much of the administration portion of NFPA 1 that was previously deleted by Comm 14 is now retained, and merged with Wisconsin-specific administrative elements which devolve from statutory directives to the Department and local fire chiefs.

6. Summary of, and Comparison with, Existing or Proposed Federal Regulations

General Building Code

Code of Federal Regulations

An Internet-based search for “federal commercial building code” and “building code regulations” in the *Code of Federal Regulations* (CFR) did not identify any federal regulations pertaining to these topics.

Federal Register

An Internet-based search for “federal commercial building code” and “building code regulations” in the 2003, 2004 and 2005 issues of the *Federal Register* did not identify any proposed federal regulations pertaining to these topics.

Energy Conservation Requirements

Code of Federal Regulations

The portion of the CFR relating to energy conservation for commercial buildings and facilities is found under 10 CFR 420–State Energy Program. The stated purpose of this regulation is to promote the conservation of energy, to reduce the rate of growth of energy demand, and to reduce dependence on imported oil—through the development and implementation of comprehensive state energy programs. This regulation initially required that each state’s energy conservation rules for new buildings be no less stringent than the provisions of the 1989 edition of ASHRAE Standard 90.1, *Energy Standard for Buildings Except Low-Rise Residential Buildings*.

Federal Register

As indicated in the July 15, 2002, *Federal Register*, the Secretary of the Interior amended the federal energy conservation regulations in 2002 by mandating compliance with the 1999 edition of the ASHRAE 90.1 Standard. The 2006 edition of the IECC energy conservation requirements regarding commercial buildings reflect the 2004 edition of the ASHRAE 90.1 Standard which the proposed rules would adopt by reference.

Accessibility Requirements

Code of Federal Regulations

The portions of the CFR relating to accessibility in commercial buildings and facilities include the following:

1. 28 CFR 35–Nondiscrimination on the Basis of Disability in State and Local Government Services
2. 28 CFR 36–Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities
3. 24 CFR 1–Final Fair Housing Accessibility Guidelines

The purpose of 28 CFR 35 and 28 CFR 36 is to require public buildings and commercial facilities, including

government-owned and –operated buildings and facilities, to be designed, constructed, and altered in compliance with the accessibility construction regulations specified under the federal Americans with Disabilities Act Accessibility Guidelines (ADAAG). The purpose of 24 CFR 1 is to provide technical guidance on the design and construction of dwelling units as required by the federal Fair Housing Amendments Act of 1988. In Wisconsin, the accessibility requirements for the design and construction of public buildings and places of employment, including government-owned and –operated facilities and dwelling units, are currently found under chapter Comm 62 and the 2000 edition of the IBC as adopted by reference under section Comm 61.05. The intent of the IBC and the amendments included under chapter Comm 62 is to ensure the Wisconsin construction requirements related to accessibility are substantially equivalent to these applicable federal laws and regulations.

Federal Register

Proposed federal regulations and amendments to established federal regulations for accessibility are found in the following *Federal Registers*:

1. Federal Register January 13, 1998, ADAAG; State and Local Government Facilities
2. Federal Register January 13, 1998, ADAAG; Building Elements Designed for Children’s Use
3. Federal Register November 16, 1999, ADAAG revisions and updates
4. Federal Register July 23, 2004, Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines

The ICC is actively monitoring the proposed changes to the federal standards affecting accessibility and will include these changes in future editions of the IBC and the corresponding ICC/ANSI A117.1–Accessible and Usable Buildings and Facilities Standard.

Safety Standards for Glazing Materials

Code of Federal Regulations

The portion of the CFR relating to safety glazing material in commercial buildings and facilities is found under 16 CFR 1201–Safety Standard for Architectural Glazing Materials. This standard prescribes the safety requirements for glazing materials used in architectural products, such as doors, sliding glass doors, bathtub doors and enclosures, and shower doors and enclosures. Currently, IBC section 2406 requires glazing material located in human impact locations to comply with 16 CFR 1201.

Federal Register

An Internet-based search of 16 CFR 1201 in the 2003, 2004 and the 2005 issues of the *Federal Register* did not identify any proposed changes to this standard.

Fire Prevention Code

Code of Federal Regulations

An Internet-based search for “fire prevention” in the CFR identified the following federal regulations that potentially address fire prevention at places of employment in Wisconsin:

1. 29 CFR 1910–Occupational Safety and Health Standards
2. 29 CFR 1926–Safety and Health Regulations for Construction
3. 30 CFR 56–Safety and Health Standards–Surface Metal and Nonmetal Mines
4. 30 CFR 57–Safety and Health Standards–Underground Metal and Nonmetal Mines
5. 33 CFR 127–Waterfront Facilities Handling Liquefied Natural Gas and Liquefied Hazardous Gas

6. 46 CFR 28—Requirements for Commercial Fishing Industry Vessels

7. 46 CFR 34—Firefighting Equipment (on tank ships)

No changes to Comm 14 are intended to supersede these federal requirements, so no comparison is made here to those requirements.

Federal Register

An Internet-based search for “fire prevention” in the 2005 and 2006 issues of the *Federal Register* identified the following proposed federal rulemaking and related actions that may address fire prevention at public buildings or places of employment in Wisconsin:

1. Federal Register March 29, 2005, 32 CFR 184—Contractors’ Safety for Ammunition and Explosives

2. Federal Register November 16, 2005, 49 CFR 173 and 177—pertaining to construction, maintenance, availability and use of safe havens for storage of explosives and other high-hazard materials during transportation

3. Federal Register January 19, 2006, Federal Emergency Management Administration solicitation of comments on proposed revisions to the National Fire Incident Reporting System

Explosives and Fireworks

Code of Federal Regulations

An Internet-based search of the CFR found the following federal regulations relating to the activities to be regulated by the proposed rules:

1. 27 CFR 555 – Commerce in Explosives. This regulation contains extensive procedural and substantive requirements relating to (1) interstate or foreign commerce in explosive materials; (2) licensing of manufacturers and importers of, and dealers in, explosive materials; (3) issuance of permits; (4) conduct of business by licensees and operations by permittees; (5) storage of explosive materials; (6) records and reports required of licensees and permittees; (7) relief from disabilities under this part; (8) exemptions, unlawful acts, penalties, seizures, and forfeitures; and (9) marking of plastic explosives. These regulations relating to the storage of explosive materials, such as separation distances and magazine construction, are the same as in chapter Comm 7. These regulations cover fireworks to the extent that display and special fireworks are classified as explosive materials.

2. 30 CFR 56 – Safety and Health Standards – Surface Metal and Nonmetal Mines. This regulation contains requirements relating to the storage, site transportation, use, extraneous electricity and equipment/tools for explosive materials at surface mines.

3. 30 CFR 57 – Safety and Health Standards – Underground Metal and Nonmetal Mines. This regulation contains requirements relating to the storage, site transportation, use, extraneous electricity and equipment/tools for explosive materials at underground mines.

Federal Register

An Internet-based search of the 2004 and 2005 issues of the *Federal Register* found the following regulations relating to the activities to be regulated by the proposed rules:\

1. Federal Register, May 27, 2005. The Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives published a final rule to require licensed importers to identify, by marking, all explosive materials they import for sale or distribution.

2. Federal Register, December 20, 2004. The Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives published a notice containing the 2004 annual List of Explosive Materials.

7. Comparison with Rules in Adjacent States

An Internet-based search of adjacent states’ rules found the following regulations that include similar requirements relating to public buildings and places of employment:

- The Michigan Department of Labor and Economic Growth administers the Michigan construction codes, which adopt by reference the 2003 editions of the IBC, IRC, IECC, IEBC, and IMC, with amendments. That Department also administers a Michigan fire prevention code, which adopts by reference the 1997 editions of NFPA 1 and NFPA 101[®], *Life Safety Code*[®], with amendments. Michigan is in the process of adopting the 2006 editions of the ICC codes. The specific amendments cover differences from the adopted codes and include changes based on Michigan’s laws; no amendments have been made relating to automatic fire suppression for residential occupancies.

- The Minnesota Department of Labor and Industry administers the Minnesota State Building Code, which adopts the 2000 editions of the IBC, IRC, IFGC, IMC, and IECC with amendments. The Minnesota Department of Public Safety administers the Minnesota State Fire Code, which adopts the 2000 edition of the *International Fire Code*[®] (IFC) with amendments. These Minnesota departments are in the process of adopting the 2006 editions of the ICC codes. The specific amendments cover differences from the adopted codes and include changes based on Minnesota’s laws.

- Illinois does not administer a statewide building code. However, the Illinois Office of the State Fire Marshall administers the Illinois Fire Prevention and Safety Rules, which apply statewide and which adopt the 2000 edition of NFPA 101 with amendments.

- The Iowa Department of Public Safety administers the Iowa State Building Code, which adopts the 2003 editions of the IBC, IMC and IEBC. The Iowa State Building Code applies generally to buildings owned by the state of Iowa and to construction projects in local jurisdictions where the Iowa State Building Code is adopted. The only provisions of Iowa’s codes that apply statewide relate to accessibility for persons with disabilities, energy efficiency and factory-built structures. The Iowa Department of Public Safety also administers the rules of the State Fire Marshall, which apply to a broad range of occupancies across the state, and which are largely based on NFPA standards, such as the exiting standards in the 2000 edition of NFPA 101, and the requirements for assembly occupancies, in the 2003 edition of NFPA 101. The rules of the State Fire Marshall also allow local jurisdictions to instead apply the IFC.

8. Summary of Factual Data and Analytical Methodologies

The primary methodology for updating the Wisconsin Fire Prevention Code, chapter Comm 14, and the Wisconsin Commercial Building Code, chapters Comm 60 to 66, has been a review and assessment of the latest editions of the national model codes that serve as the basis for the two Wisconsin codes. The department’s review and assessment process involved the participation of various advisory councils. The members of the councils represent many stakeholders involved in the building industry, including designers, contractors, developers, regulators, labor, the fire service and the public. (A listing of the councils and the current members is provided at the end of this analysis.)

The department believes that the national model codes reflect current societal values with respect to protecting public health, safety and welfare in the design, construction, use, operation and maintenance of commercial buildings that serve as public buildings and places of employment. The two model code organizations (National Fire Protection Association, NFPA, and International Code Council, ICC)

both utilize a process open to all parties in the development of their codes. More information, including background information in the development of the respective 2006 model code editions, may be obtained at the NFPA web site, <http://www.nfpa.org>, and the ICC web site, <http://www.iccsafe.org>.

For the Commercial Building Code, the review and assessment process involved an examination of the revisions that occurred in the 2003 and 2006 editions of the IBC, IECC, IMC, IFGC and IEBC. The assessment included the evaluation of the current rules under chapters Comm 61 to 65 that modified these ICC codes. In conjunction with the advisory councils, determinations are made as to whether the various technical requirements under the latest editions of the model codes are reasonable for addressing potential risks or concerns, and promoting the public health, safety and welfare. Such determinations may be made based upon experience, forecasts, intuition or projection.

The requirement for more automatic fire suppression in residential occupancies is the most prominent change in this proposal. The IBC has required automatic fire sprinklers in all buildings with Group R fire areas, other than townhouses, since 2001.

Wisconsin law under, s. 101.14 (4) (c), Stats., references the building code of the Building Officials and Code Administrators International, Inc., now the IBC, as a benchmark for establishing fire suppression rules to protect public health, safety and welfare for public buildings and places of employment, which includes multifamily dwellings.

Under the provisions of 1999 Wisconsin Act 43 and 2005 Wisconsin Act 78 the department was legislatively directed to require fire sprinklers in all new residence halls and dormitories as well as in residential facilities operated by fraternities and sororities regardless of size. These Acts correspond with the requirements for fire sprinklers contained in the 2006 edition of the IBC.

In January 2006 the fire protection systems council and the multifamily dwelling code council recommended that the department proceed to public hearing without amending the IBC sprinkler threshold requirements for residential sprinklers. A recommendation on the matter from the commercial building code council was tied.

Relating to the issue of automatic fire suppression for residential occupancies, the department conducted a survey of all 50 states and the District of Columbia. The survey was completed in May of 2006 and revealed that:

- Thirty-five states have statewide codes that apply to all new residential buildings accommodating three or more dwelling units.
- Thirty-three states have more stringent statewide fire sprinkler requirements for new residential buildings than under the current WCBC. (The WCBC requires automatic fire sprinklers in new construction at 21 or more dwelling units.)
- Twenty-three states require automatic fire sprinkler systems in all new residential buildings of three or more dwelling units, reflecting the sprinkler thresholds of the 2006 IBC.

Fire Sprinkler Triggers within the United States and District of Columbia

Triggers for Sprinklers	Number of States	States		
3 Dwelling Units or 3 Stories	23	Arkansas Connecticut Delaware* Florida Georgia Maine Maryland Massachusetts	Michigan Montana Nebraska Nevada New Mexico New York Oregon Pennsylvania	Rhode Island South Carolina Utah Vermont Virginia Washington Wyoming
4 Dwelling Units	1	Alaska		
5 Dwelling Units or 11 Occupants	1	California		
12 Dwelling Units or 2 Stories	1	New Jersey		
17 Dwelling Units or 3 Stories	7	Indiana Minnesota New Hampshire	North Carolina North Dakota Ohio	West Virginia and District of Columbia
21 Dwelling Units	1	Wisconsin		
3 Stories	1	Kentucky		
No Statewide Code	15	Alabama Arizona Colorado Hawaii Idaho	Illinois Iowa Kansas Louisiana Mississippi	Missouri Oklahoma South Dakota Tennessee Texas

*Whenever building is greater 10,000 square feet.

Residential fires cause over 80 percent of the annual civilian fire fatalities in the United States. It is estimated that 3,030 civilian fire fatalities and 13,825 civilian fire injuries occurred in residential occupancies in 2005. (National Fire Protection Association Report – Fire Loss in the United States During 2005, July 2006) A U.S. Fire Administration special report reveals that from 2001 to 2004 smoke alarms operated in 34 percent of fatal apartment fires and 12 percent of fatal

one- and two- family dwelling fires. (OLS Newsletter, Vol. 21, Nos. 9 & 10)

The department surveyed all 860 Wisconsin fire departments in an attempt to identify the number of civilian and firefighter fire fatalities that had occurred in residential occupancies since 2001. As of September 1, 2006, 560 fire departments have reported:

- Two hundred forty-two civilian fire fatalities occurred in residential occupancies.
- Thirty-three fire fatalities occurred in residential buildings containing 3 to 20 dwelling units, twenty-eight of which occurred in buildings with 3 to 8 dwelling units.
- Eleven fire fatalities occurred in residential buildings containing more than 21 dwelling units.
- Eleven fire fatalities occurred in residential buildings where the number of dwelling units was unknown.
- One hundred eighty-seven of the fire fatalities occurred

in one- and two- family dwellings.

- Two firefighter fatalities; one as a result of a heart attack and the other in a single family dwelling fire as a result of a collapsing floor.

The department studied the sprinkler installation costs of 64 recently constructed multifamily dwellings in Wisconsin. Sprinkler installation costs ranged from \$0.59 to \$3.33 per square foot of building area for the projects. The following table shows the number of buildings studied and the average cost per square foot for buildings in three size categories.

Average Reported Costs of Fire Sprinklers in Dollars/Sq. Ft.			
No. of Dwelling Units in Building	3 – 8	9 – 16	17 and up
No. of Buildings	27	17	20
Average cost per square foot	\$1.87/sq. ft.	\$1.45/sq. ft.	\$1.44/sq. ft.

The following table shows the estimated average sprinkler installation costs as a percentage of the estimated average total building construction cost for three building categories and whether urban or rural water supplies were available for the sprinkler system.

Average Estimated Cost of Fire Sprinklers as a Percent of Total Building Construction Cost*			
No. of Dwelling Units in Building	3 – 8	9 – 16	17 and up
No. of Buildings Studied	27	17	20
Average % of total cost (urban water)	1.53%	1.85%	2.01%
Average % of total cost (rural water)**	2.98%	2.62%	2.56%

*Total building construction and sprinkler costs were estimated utilizing RSMeans software based upon the location and type of construction for each of the 64 buildings.

**The sprinkler installation cost included an additional \$25,000 estimated to cover a water supply reservoir and pump for those projects where an urban water supply was unavailable.

The department compared the impact of increased construction costs due to fire sprinklers for residential occupancies to the cost of mortgage interest. Over the life of a 30-year mortgage, a one percent increase in the amount financed results in approximately the same cost to the consumer as a one-tenth of a percent increase in the mortgage interest rate. Put another way, a two percent increase in construction costs could be expected to impact consumers as much as a two-tenths percent increase in their mortgage rates. The department anticipates that consumers may react to increased costs due to fire sprinklers in much the same way that they react to other cost increases by reducing amenities or reducing the size of the building. A two percent reduction to a 900 square foot dwelling unit is 18 square feet or 6 inches along 36 feet of exterior wall.

Although fire sprinklers may increase the cost of construction, sprinklers do not increase the cost of land. In fact land costs on a per dwelling unit basis may decrease where fire sprinklers are utilized given that an increase in the maximum distance between a sprinklered building and fire department access roads is permitted.

The annual cost of code-required tests on fire sprinkler systems, for apartment and condominium buildings containing three to twenty dwelling units, ranges from \$300 to \$550, according to a major mechanical contractor active across Wisconsin.

The department found that the sprinkler installation costs in the above study were consistent with the current valuation estimates which are published by Marshall and Swift/Boeckh, LLC, as an industry benchmark for real estate appraisers throughout the country. Consequently, these costs are widely recognized as increasing the assessable or appraisable value of a building, which means these costs can be recouped when the building is sold.

Substantial insurance savings can result from the installation of fire sprinkler systems. Published accounts describe fire insurance savings of 5 to 40% for residential occupancies that are served by fire sprinklers. Savings vary by building construction type, location and type of usage. One insurance industry expert advised Commerce that reduced insurance premiums for sprinklered apartment and condominium buildings may pay for the cost of the sprinkler system over a period of 10 to 15 years.

Substantial savings can also be expected to accrue from the fire damage that would not occur because of the additional fire sprinkler protection. Reported data shows that residential fires caused an estimated \$6.8 billion of direct property loss in the United States in 2005. Wisconsin's annual per capita proportion of that loss would be about \$126 million.

Automatic fire sprinkler protection has an established worldwide record. Sprinkler protection has been attributed with reducing and often times eliminating the following effects from fires:

- Loss of life, both human and animal
- Physical injuries from smoke inhalation, burns, falls and contusions
- Mental anguish and distress
- Medical costs
- Lost wages
- Personal property loss
- Real property loss
- Cost of relocating and housing displaced residents
- Cost fire department and other emergency services

The process for reviewing and assessing the Fire Prevention Code was accomplished in a manner similar to that for the Commercial Building Code. The 2003 and 2006

editions of NFPA 1 were evaluated in relationship to the current rules of chapter Comm 14. Chapters Comm 7, Explosive Materials, and Comm 9, Manufacture of Fireworks, were also evaluated to determine where the various codes overlapped and whether the rules and codes could be consolidated.

9. Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Report

The department utilized ten advisory councils in analyzing and developing the proposed revisions to the Fire Prevention Code and the Commercial Building Code. The councils involve a variety of organizations whose memberships include many types of small businesses. The department utilizes these councils to gather information on potential impacts in complying with the both technical and administrative requirements of the codes. A responsibility of council members is to bring forth concerns their respective organizations may have with the requirements, including concerns regarding economic impacts. (Copies of the council meetings summaries are available on the Safety and Building Division website: <http://www.commerce.state.wi.us/SB/SB-CodeCouncilsComBldgSum.html>)

The department also offers an e-mail subscription service to anyone who is interested in rule development and/or council activities. The service provides e-mail notification of council meetings, meeting agendas and council meeting progress reports. Currently, there over one thousand subscriptions for information pertaining to the commercial building program.

An economic impact report pursuant to section 227.137, Stats., has not been required to be prepared.

10. Effect on Small Business

The requirements of the Fire Prevention Code and the Commercial Building Code impact all businesses, regardless of size, utilizing public buildings and places of employment in Wisconsin. The codes impact a variety of businesses, including small businesses, particularly those businesses that design, build, or maintain commercial buildings; provide or produce building materials or components; own commercial buildings; or occupy commercial buildings. It is indeterminable how many small businesses may be impacted by the rules in some manner.

The potential effects of the codes occur on two basic levels, administrative and technical. The codes dictate certain administrative procedural requirements that are to be followed in order to acquire various approvals. For the most part, the codes establish numerous technical standards that are to be adhered to when designing, constructing, using, operating or maintaining a commercial building in order to protect public health, safety and welfare.

The proposed rule revisions do not substantially modify the current administrative requirements of the Fire Prevention Code or the Commercial Building Code. Therefore, this type of impact on small businesses will not substantially change.

How the codes' technical standards may impact small businesses is dependent upon many variables. The proposed revisions for the Commercial Building Code do not apply retroactively to existing buildings. The proposed revisions would apply when a new building or modification to an existing building is proposed. The various advisory councils did not identify major economic concerns with the proposed technical revisions updating the Fire Prevention Code or the Commercial Building Code to the latest national model codes as amended in this proposal.

Council Members and Representation

The proposed rules were developed with the assistance of the following Advisory Councils:

Commercial Building Code Council

Janet Harter, Fire Chiefs Association
Curt Hastings, Building Contractors
Joe Jameson, Municipalities/Building Inspectors
Joseph Jurkiewicz, Architects
David Keller, Building Owners
Steve Klessig, Associated Builders and Contractors
Terry Kennedy, Engineers
Dennis Krutz, Insurance Organizations
David Lind, Fire Inspectors Association
William Napier, State Facilities
Ed Ruckriegel, Madison Fire Department
Gary Ruhl, Tradesworkers and Craftworkers
Chris Rute, City of Milwaukee
Michael Shoys, Building Owners
Russ Spahn, Fire Chiefs Association
Fred Stier, Builders and Contractors

Multifamily Dwelling Code Council

Kraig Biefeld, Fire Service
Jeffery Brohmer, Fire Service
Emory Budzinski, Manufacturer/Supplier Wood Products
Beth Gonnering, Building Contractors/Developers
Edward Gray, Labor
Greta Hansen, Public
James Klett, Architects/Engineers/Developers
Michael Morey, Contractors/Developers
Dave Nitz, Building Inspectors
Richard Paur, Building inspectors
Nicholas Rivecca, Manufacturer/Supplier (Concrete)
William Roehr, Labor
Korrine Schneider, Public
Kevin Wippurthurth, Drywall Distributors

Alteration and Change of Occupancy

Joel Becker, Associated General Contractors of Greater Milwaukee
Steve Gleisner, Milwaukee Fire Department
Bruce Johnson, Wisconsin Builders Association
David Lind, Wisconsin State Fire Inspectors Association
Paul Menches, Onalaska, Wis. State Fire Chiefs Assn.
John Periard, Building Owners and Managers Association
Charles Quagliana, American Institute of Architects
Chris Rute, City of Milwaukee
Jim Sewell, Wisconsin Historical Society
Harry Sulzer, City of Madison
David Vos, Developer of Historic Properties

Energy Conservation

Jeffrey Boldt, Wisconsin Chapter ASHRAE
Dan Dehnert, Associated General Contractors
Ross DePaola, Clean Wisconsin
Timothy Kritter, Associated Builders and Contractors
Kevin Lichtfuss, Wisconsin Assn. of Consulting Engineers
Dave Osborne, Wisconsin Builders Association

Gerald Schulz, Wisconsin Chapter National Electrical Contractors

Harry Sulzer, League of Wisconsin Municipalities

Robert Wiedenhofer, Sheet Metal and Air Conditioning Contractors

Fire Safety

Peter Braun, Wall-tech Inc.

Thomas Clark, Pleasant Prairie Fire and Rescue Dept.

John Eagon, American Institute of Architects, Wis. Society

Michael Gardner, Gypsum Association

Jeff Leckwee, Bricklayers Local 13

Richard Licht, International Firestop Council

David Lind, Wisconsin Fire Inspectors Association

Kerry Vondross, County Materials Corporation

David Wheaton, City of Wauwatosa

Patrick Winger, Winger Concrete Products

Fire Protection Systems

Brandon Bartow, Bartow Builders

Jeff Bateman, Pioneer Fire Protection

Ron Bergquist, Viking Supply Net

Tom Binish, A&A Fire and Security

Thomas Clark, Pleasant Prairie Fire and Rescue Dept.

John Crook, City of Fitchburg

Joseph Donato, Gentex Corporation

John Eagon, American Institute of Architects, Wis. Society

Joseph Feuling, Sentra Protective Systems

Janet Harter, Eau Claire Fire Department

Chris Schoenbeck, Sprinkler Fitters Local 183

Curt Waddell, WPI Communications Systems

HVAC

Richard Lund, Plumbing-Heating-Cooling Contractors Association

Michael Mamayek, Plumbing and Mechanical Contractors of Milwaukee and SE Wisconsin

Richard Pearson, American Society of Heating, Refrigeration and Air-Conditioning Engineers, Madison Chapter

John Periard, Building Owners and Managers Association of Wisconsin

Daniel Rehbein, American Council of Engineering Companies of Wisconsin

Dan Rogers, Sheet Metal and Air-Conditioning Contractors of Wisconsin

David Stockland, Associated Builders and Contractors of Wisconsin

Harry Sulzer, League of Municipalities

Means of Egress and Accessibility

Larry Earll, Wisconsin Department of Administration

Cleo Eliason, Easter Seal Society of Wisconsin

Joseph Jurkiewicz, American Institute of Architects, Wisconsin Society

Larry Palank, Associated General Contractors of Greater Milwaukee

Richard Pomo, Wisconsin Council of the Blind

Ed Solner, American Institute of Architects, Wis. Society

Monica Sommerfeldt, Wisconsin Builders Association

David Wheaton, Wis. Building Inspectors Association

Structural

Greg Bares, Wisconsin Department of Administration

Steven Cramer, UW Madison Department of Civil and Environmental Engineering

David Hyzer, American Institute of Architects – Wisconsin

Michael Oliva, UW Madison Department of Civil and Environmental Engineering

John Rave, Associated Builders and Contractors of Wisconsin

Robert Schumacher, American Society of Civil Engineers

Alan Wagner, American Society of Civil Engineers

Michael West, American Society of Civil Engineers

Comm 14 – Fire Prevention Council

John Ashley, Wisconsin Association of School Boards

Gregg Cleveland, Wisconsin State Fire Chiefs Association

Marty King, Professional Fire Fighters of Wisconsin

Dave Lind, Wisconsin Fire Inspectors Association

John Periard, Building Owners and Managers Association

Jim Stormer, Wis. State Fire Fighter's Association Inc.

The proposed rules and an analysis of the proposed rules are available on the Internet at the Safety and Buildings Division Web site at www.commerce.wi.gov/SB/. Paper copies may be obtained without cost from Roberta Ward, at the Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701-2689, or Email at roberta.ward@wisconsin.gov, or at telephone (608) 266-8741 or (608) 264-8777 (TTY). Copies will also be available at the public hearing.

Environmental Analysis

Notice is hereby given that the Department has prepared a preliminary Environmental Assessment (EA) on the proposed rules. The preliminary recommendation is a finding of no significant impact. Copies of the preliminary EA are available from the Department on request and will be available at the public hearings. Requests for the EA and comments on the EA should be directed to:

Initial Regulatory Flexibility Analysis

1. Types of small businesses that will be affected by the rules.

The requirements of the Fire Prevention Code and the Commercial Building Code impact all businesses, regardless of size, utilizing public buildings and places of employment in Wisconsin. The codes impact a variety of businesses, including small businesses, particularly those businesses that design, build, or maintain commercial buildings; provide or produce building materials or components; own commercial buildings; or occupy commercial buildings. It is indeterminable how many small businesses may be impacted by the rules in some manner.

2. Reporting, bookkeeping and other procedures required for compliance with the rules.

The proposed rule revisions do not substantially modify the current administrative requirements of the Fire Prevention Code or the Commercial Building Code. Therefore, this type of impact on small businesses will not substantially change.

3. Types of professional skills necessary for compliance with the rules.

The codes establish numerous technical standards that are to be adhered to when designing, constructing, using, operating or maintaining a commercial building in order to protect public health, safety and welfare. The design, construction and maintenance of public buildings and places of employment typically necessitate building owners to

acquire the services of architects, engineers, designers and various tradesmen, including plumbers, electricians, sheet metal workers, carpenters, sprinkler fitters and contractors.

4. Rules have a significant economic impact on small businesses.

No. Rules not submitted to Small Business Regulatory Review Board

Fiscal Estimate

The proposed rules will not have a significant effect on the private sector.

The small business regulatory coordinator for the Department of Commerce is Carol Dunn, who may be contacted at telephone (608) 267-0297, or Email at carol.dunn@wisconsin.gov.

Notice of Hearing Financial Institutions – Banking [CR 06-124]

NOTICE IS HEREBY GIVEN That pursuant to ss. 220.02 (2) and (3), and 227.11 (2), Stats., and interpreting 138.10 (15), Stats., the Department of Financial Institutions, Division of Banking will hold a public hearing at the Department of Financial Institutions, 345 W. Washington Avenue, 5th Floor, in the city of Madison, Wisconsin, on the **13th day of December, 2006**, at 1:30 p.m. to consider a rule to repeal and recreate ch. DFI—Bkg 77, relating to any person licensed under s. 138.09, Stats., and operating as a pawnbroker.

Analysis Prepared by the Department of Financial Institutions, Division of Banking

The objective of the rule is to repeal and recreate ch. DFI—Bkg 77. Currently ch. DFI—Bkg 77, relates to the “Consumer Credit Review Board.” However, this chapter is no longer necessary and should be repealed because this board was legislatively abolished. Currently pawnbrokers are subject to regulation under s. 138.10, Stats. However, 2005 Wisconsin Act 158 provides that, effective October 1, 2006, if a pawnbroker registers as a licensed lender under s. 138.09, Stats., the pawnbroker is exempt from the requirements of s. 138.10, Stats. The purpose of this rule is to set forth, in the recreated ch. DFI—Bkg 77, matters pertaining to the regulation of pawnbrokers, including definitions, hours and days of operation, holding periods, law enforcement requests and orders, notice of sales, effect of nonredemption, agreements and extensions, prohibited practices, and lost or damaged goods.

Fiscal Estimate

The rule’s requirements place no additional duties or burdens on state or local government, and hence has no affect on costs to either.

Contact Person

To obtain a copy of the proposed rule or fiscal estimate at no charge, to submit written comments regarding the proposed rule, or for questions regarding the agency’s internal processing of the proposed rule, contact Mark Schlei, Deputy General Counsel, Department of Financial Institutions, Office of the Secretary, P.O. Box 8861, Madison, WI 53708-8861, tel. (608) 267-1705. A copy of the proposed rule may also be obtained and reviewed at the Department of Financial Institution’s website, www.wdfi.org. Written comments regarding the proposed rule may also be submitted via the department’s website contact page, e-mail the secretary. Written comments must be received by the conclusion of the department’s hearing regarding the

proposed rule. For substantive questions on the rule, contact Michael J. Mach, Administrator, Department of Financial Institutions, Division of Banking, P.O. Box 7876, Madison, WI 53707-7876, tel. (608) 266-0451.

Notice of Hearing Financial Institutions – Banking [CR 06-123]

NOTICE IS HEREBY GIVEN That pursuant to ss. 426.104 (1) (e) and 227.11 (2), Stats., and interpreting s. 425.206 (1) (d), Stats., the Department of Financial Institutions, Office of Consumer Affairs will hold a public hearing at the Department of Financial Institutions, 345 W. Washington Avenue in the city of Madison, Wisconsin, on the **13th day of December, 2006**, at 10:00 a.m. to consider a rule to amend s. DFI—Bkg 80.68, relating to nonjudicial enforcement and surrender of collateral.

Analysis Prepared by the Department of Financial Institutions, Office of Consumer Affairs

The objective of the rule is to amend s. DFI—Bkg 80.86. The purpose of this rule is to bring s. DFI—Bkg 80.68 into conformity with newly created s. 425.206 (1) (d), Stats. Under the current s. DFI—Bkg 80.68, where a merchant request or demands the return of collateral, after providing the customer with notice of default and opportunity to cure as required by s. 425.105, Stats., a release of the collateral by the customer is not a surrender under ss. 425.204 (3) and 425.206 (1), Stats., if the merchant fails to provide a notice to the customer which clearly informs the customer of the right to a hearing on the issue of default before any repossession. 2005 Wisconsin Act 255, s. 8 created s. 425.206 (1) (d), Stats. This statute section provides that notwithstanding any other provision of law, no merchant may take possession of collateral or goods subject to a consumer lease in this state except when, for motor vehicle collateral or goods subject to a motor vehicle consumer lease, the customer has not made a demand as specified in s. 425.205 (1g) (a) 3., Stats., and, no sooner than 15 days after the merchant gives the notice specified in s. 425.205 (1g) (a), Stats., the merchant has taken possession of the collateral or goods in accordance with s. 425.206 (2), Stats. The rule amends s. DFI—Bkg 80.68 to incorporate the provisions of s. 425.206 (1) (d), Stats. The rule provides that where a merchant requests or demands the return of collateral, after providing the customer with notice of default and opportunity to cure as required by s. 425.105, Stats., a release of the collateral by the customer is not a surrender under ss. 425.204 (3) and 425.206 (1), Stats., if the merchant fails to provide a notice to the customer which clearly informs the customer of the right to a hearing on the issue of default before any repossession unless the creditor has perfected its right to repossession under s. 425.206 (1) (d), Stats.

Fiscal Estimate

The rule places no additional duties or burdens on state or local government, and hence has no affect on costs to either.

Contact Person

To obtain a copy of the proposed rule or fiscal estimate at no charge, to submit written comments regarding the proposed rule, or for questions regarding the agency’s internal processing of the proposed rule, contact Mark Schlei, Deputy General Counsel, Dept. of Financial Institutions, Office of the Secretary, P.O. Box 8861, Madison, WI 53708-8861, tel. (608) 267-1705. A copy of the proposed rule may also be obtained and reviewed at the Department of Financial Institution’s website, www.wdfi.org. Written comments

regarding the proposed rule may also be submitted via the department's website contact page, e-mail the secretary. Written comments must be received by the conclusion of the department's hearing regarding the proposed rule.

For substantive questions on the rule, contact Paul Egide, Director, Department of Financial Institutions, Office of Consumer Affairs, P.O. Box 8041, Madison, WI 53708-8041, tel. (608) 267-3518.

Notice of Hearing
Financial Institutions – Corporate and
Consumer Affairs
[CR 06-122]

NOTICE IS HEREBY GIVEN That pursuant to ss. 227.11 (2) and 409.526 (1), Stats., and interpreting s. 409.519, Stats., the Department of Financial Institutions, Division of Corporate and Consumer Services will hold a public hearing at Wisconsin Department of Financial Institutions, Office of the Secretary, 345 W. Washington Avenue, 5th Floor in the city of Madison, Wisconsin, on the **13th day of December, 2006**, at 9:00 a.m. to consider a rule to repeal and recreate s. DFI-CCS 5.04 relating to UCC search requests.

**Analysis Prepared by Dept. of Financial Institutions,
Division of Corporate and Consumer Affairs**

The objective of the rule is to repeal and recreate s. DFI-CCS 5.04. Under current law, in creating search results for records of UCC documents filed with the department, certain standardized search logic is applied to the name presented to the filing office by the person requesting the search. The purpose of this rule is to set forth, in recreated s. DFI-CCS 5.04, revised standardized search logic. Under the proposed rule, the standardized search logic set forth more accurately reflects the methodology used.

Fiscal Estimate

The rule places no additional duties or burdens on state or local government, and hence has no affect on costs to either.

Contact Person

To obtain a copy of the proposed rule or fiscal estimate at no charge, to submit written comments regarding the proposed rule, or for questions regarding the agency's internal processing of the proposed rule, contact Mark Schlei, Deputy General Counsel, Department of Financial Institutions, Office of the Secretary, P.O. Box 8861, Madison, WI 53708-8861, tel. (608) 267-1705. A copy of the proposed rule may also be obtained and reviewed at the Department of Financial Institution's website, www.wdfi.org. Written comments regarding the proposed rule may also be submitted via the department's website contact page, e-mail the secretary. Written comments must be received by the conclusion of the department's hearing regarding the proposed rule.

For substantive questions on the rule, contact Ray Allen, Deputy Administrator, Department of Financial Institutions, Division of Corporate and Consumer Affairs, P.O. Box 7847, Madison, WI 53708-7847, tel. (608) 264-7950.

Notice of Hearing
Insurance
[CR 06-117]

Notice is hereby given that pursuant to the authority granted under s. 601.41 (3), Stats., and the procedures set forth

in under s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order affecting Section Ins 6.77, Wis. Adm. Code, relating to underinsured and uninsured motorist coverage in umbrella and commercial policies and affecting small business. This hearing will also be held in compliance with s. 227.24 (4) concerning the emergency rule which corresponds to the proposed rule, as this proposed rule has been issued as an emergency rule.

Hearing Information

Date: **December 11, 2006**

Time: 10:00 a.m., or as soon thereafter as the matter may be reached

Place: OCI, Room 227, 125 South Webster St 2nd Floor, Madison, WI

Written comments can be mailed to:

Mr. Robert Luck
Legal Unit – OCI Rule Comment for Rule Ins 6.77
Office of the Commissioner of Insurance
PO Box 7873
Madison WI 53707-7873

Written comments can be hand delivered to:

Mr. Robert Luck
Legal Unit – OCI Rule Comment for Rule Ins 6.77
Office of the Commissioner of Insurance
125 South Webster St – 2nd Floor
Madison WI 53702

Comments can be emailed to:

Robert Luck
Bob.Luck@oci.state.wi.us

Comments submitted through the Wisconsin Administrative Rule website at: <http://adminrules.wisconsin.gov> on the proposed rule will be considered.

The deadline for submitting comments is 4:00 p.m. on the 8th day after the date for the hearing stated in this Notice.

Analysis Prepared by the Office of the Commissioner of Insurance (OCI)

1. Statutes interpreted:
ss. 600.01, 631.36, 632.32, Stats.
2. Statutory authority:
ss. 600.01 (2), 601.41 (3), 628.34 (12), 631.01 (5), 631.36 (1) (c), Stats.
3. Explanation of the OCI's authority to promulgate the proposed rule under these statutes:
Under s. 631.01 (5), the commissioner is given authority to exempt certain classes of insurance from the requirements of 631.36 or 632.32, Stats. The commissioner has previously exercised this authority in adopting and amending Ins 6.77, Wis. Admin. Code.
4. Related Statutes or rules: Ins 6.77, Wisc. Admin. Code
5. The plain language analysis and summary of the proposed rule:

This rule would remove the requirement that umbrella and commercial policies give notice of the availability of underinsured motorists coverage. The obligation to give this notice would rest solely with the insurer writing the auto coverage.

In addition, the current exemption from the requirement to offer uninsured motorists for umbrella policies would be expanded to include commercial liability policies.

6. Summary of and comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule: None.

7. Comparison of similar rules in adjacent states:

Illinois: 215 ILCS 5/143a In *Hartbarger v. Country Mut. Ins. Co.*, 107 Ill. App. 3d 391, it was found that this section was enacted to insure a minimum amount of uninsured motorist protection, but did not give the authority to rewrite unambiguous provisions of an umbrella policy in order to expand the maximum coverage afforded plaintiff.

Iowa: Iowa Code § 321A.21 Primary insurance is purchased to be the first tier of insurance coverage while an umbrella policy is intended to cover only catastrophic losses that exceed the insured's required primary insurance limit. "Umbrella" policies are not included under Iowa Code § 321A.21, the financial responsibility statute. *Jalas v. State Farm Fire & Cas. Co.*, 505 N.W.2d 811, 1993 Iowa Sup. LEXIS 211 (Iowa 1993).

Michigan: Sec. 257.520(a) Michigan is a no-fault state and thus is not comparable to Wisconsin. Michigan defines a "motor vehicle liability policy" as an owner's or an operator's policy of liability insurance which would appear to not include an umbrella policy.

Minnesota: 65B.49 Minnesota is a no-fault state and thus is not comparable to Wisconsin. Uninsured and underinsured coverage is required in auto policies.

8. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:

OCI review of complaints, NAIC models, insurer's financial information

9. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:

The change will continue the existing practice used by insurers issuing umbrella and commercial policies. As such, it will have no impact.

10. If these changes may have a significant fiscal effect on the private sector, the anticipated costs that will be incurred by private sector in complying with the rule:

These changes will not have a significant fiscal effect on the private sector.

11. A description of the Effect on Small Business:

This rule will have little or no effect on small businesses.

12. Agency contact person:

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the OCI WEB sites at: <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110

Email: Inger.Williams@OCI.State.WI.US

Address: 125 South Webster St – 2nd Floor
Madison WI 53702

Mail: PO Box 7873, Madison WI 53707-7873

13. Place where comments are to be submitted:

Mailing address:

Robert Luck, Legal Unit

OCI Rule Comment for Rule Ins 6

Office of the Commissioner of Insurance

PO Box 7873

Madison WI 53707-7873

Street address:

Robert Luck, Legal Unit

OCI Rule Comment for Rule Ins 6

Office of the Commissioner of Insurance

125 South Webster St – 2nd Floor

Madison WI 53702

Email address:

Robert Luck, Robert.Luck@oci.state.wi.us

WEB Site: <http://oci.wi.gov/ocirules.htm>

Fiscal Estimate

There will be no state or local government fiscal effect. The full text of the proposed changes, a summary of the changes and the fiscal estimate are attached to this Notice of Hearing.

Initial Regulatory Flexibility Analysis

This rule does not impose any additional requirements on small businesses.

The OCI small business coordinator is Eileen Mallow and may be reached at phone number (608) 266-7843 or at email address: Eileen.Mallow@oci.state.wi.us

Contact Person

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the OCI internet WEB site at <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, Services Section, OCI, at: Inger.Williams@OCI.State.WI.US, (608) 264-8110, 125 South Webster Street – 2nd Floor, Madison WI or PO Box 7873, Madison WI 53707-7873.

Notice of Hearing

Insurance

[CR 06-118]

Notice is hereby given that pursuant to the authority granted under s. 601.41 (3), Stats., and the procedures set forth in under s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order affecting Section Ins 9.25 (8), Wis. Adm. Code, relating to preferred provider plan limited exemption. This hearing will also be held in compliance with s. 227.24 (4) as this proposed rule was issued as an emergency rule.

Hearing Information

Date: **December 12, 2006**

Time: 10:00 a.m., or as soon thereafter as the matter may be reached

Place: OCI, Room 227, 125 South Webster St 2nd Floor, Madison, WI

Written comments can be mailed to:

Julie E. Walsh

Legal Unit – OCI Rule Comment for Rule Ins 9258

Office of the Commissioner of Insurance

PO Box 7873

Madison WI 53707-7873

Written comments can be hand delivered to:

Julie E. Walsh

Legal Unit – OCI Rule Comment for Rule Ins 9258

Office of the Commissioner of Insurance

125 South Webster St – 2nd Floor

Madison WI 53702

Comments can be emailed to:

Julie.Walsh@oci.state.wi.us

Comments submitted through the Wisconsin Administrative Rule website at: <http://adminrules.wisconsin.gov> on the proposed rule will be considered.

The deadline for submitting comments is 4:00 p.m. on the 8th day after the date for the hearing stated in this Notice of Hearing.

Fiscal Estimate

There will be no state or local government fiscal effect.

Initial Regulatory Flexibility Analysis

This rule does not impose any additional requirements on small businesses.

The OCI small business coordinator is Eileen Mallow and may be reached at phone number (608) 266- 7843 or at email address Eileen.Mallow@oci.state.wi.us

Contact Person

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the OCI internet WEB site at <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, Services Section, OCI, at: Inger.Williams@OCI.State.WI.US, (608) 264-8110, 125 South Webster Street – 2nd Floor, Madison WI or PO Box 7873, Madison WI 53707-7873.

Analysis Prepared by the Office of the Commissioner of Insurance (OCI)

1. Statutes interpreted:

Sections 600.01, 628.34 (12) and 632.85, and ch. 609, Stats.

2. Statutory authority:

Sections 600.01 (2), 601.41 (3), 601.42, 609.20, 609.38 and 628.34 (12), Stats.

3. Explanation of the OCI's authority to promulgate the proposed rule under these statutes:

The Commissioner of Insurance is authorized to promulgate rules under ss. 628.34 (12), 601.41 and 609.20, Stats. Section 609.20, Stats., permits the Commissioner to promulgate rules relating to preferred provider plans and defined network plans in order to ensure enrollee access to health care services and ensure continuity of health care while recognizing the differences between preferred provider plans and defined network plans.

4. Related Statutes or rules:

There are no related statutes or rules.

5. The plain language analysis and summary of the proposed rule:

The proposed rule clarifies the applicability dates for ss. Ins 9.25 and 9.27, Wis. Adm. Code, and specifies that insurers offering preferred provider plans that are issued prior to January 1, 2007 and periodically renewed after December 31, 2006 and that would otherwise be affected by ss. Ins 9.25 and 9.27, Wis. Adm. Code, will be grandfathered from compliance with those new requirements. The requirements of ss. Ins 9.25 and 9.27, Wis. Adm. Code, will be applicable to an insurer offering a preferred provider plan on or after January 1, 2007.

6. Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

There is no federal regulation that addresses the activities regulated by the proposed rule.

7. Comparison of similar rules in adjacent states as found by OCI:

Illinois: None

Iowa: None

Michigan: None

Minnesota: None

8. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:

The information OCI used in support of this proposed rule includes the information described in the analysis of Clearinghouse Rule 05-059. However more specifically it includes the information provided by representatives of the insurance industry and preferred provider organizations to JCRAR and OCI concerning the topic addressed by the proposed rule.

9. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:

This rule does not impose any additional requirements on small businesses. Its effect will be to limit requirements otherwise applied by rules currently in effect, including Clearinghouse rule 05-059. This is apparent from the proposed rule itself and the summary.

10. If these changes may have a significant fiscal effect on the private sector, the anticipated costs that will be incurred by private sector in complying with the rule:

This rule will not have a significant fiscal effect on the private sector. Its effect will be to limit requirements otherwise applied by rules currently in effect, including Clearinghouse rule 05-059.

11. A description of the Effect on Small Business: This rule will have an effect on small businesses only by limiting requirements otherwise applied by rules currently in effect, including Clearinghouse rule 05-059.

12. Agency contact person: A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the WEB sites at: <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110

Email: Inger.Williams@OCI.State.WI.US

Address: 125 South Webster St – 2nd Floor Madison WI 53702

Mail: PO Box 7873, Madison WI 53707-7873

13. Place where comments are to be submitted and deadline for submission:

The deadline for submitting comments is 4:00 p.m. on the 8th day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

Julie E. Walsh

Legal Unit – OCI Rule Comment for Rule Ins 9258

Office of the Commissioner of Insurance

PO Box 7873

Madison WI 53707-7873

Street address:

Julie E. Walsh

Legal Unit – OCI Rule Comment for Rule Ins 9258

Office of the Commissioner of Insurance

125 South Webster St – 2nd Floor

Madison WI 53702

Email address: Julie.Walsh@oci.state.wi.us

WEB Site: <http://oci.wi.gov/ocirules.htm>

The proposed rule changes are:

SECTION 1. Section Ins 9.25 (8) is created to read:

Ins 9.25 (8) This section first applies to an insurer offering a preferred provider plan beginning on January 1, 2007. This section does not apply to an insurer with respect to a preferred provider plan issued prior to January 1, 2007 and periodically renewed after December 31, 2006.

SECTION 2. Section Ins 9.27 (4) is created to read:

Ins 9.27 (4) This section first applies to an insurer offering a preferred provider plan beginning on January 1, 2007. This section does not apply to an insurer with respect to a preferred provider plan issued prior to January 1, 2007 and periodically renewed after December 31, 2006.

SECTION 3. This section may be enforced under ss. 601.41, 601.64, 601.65, Stats., or ch. 645, Stats., or any other enforcement provision of chs. 600 to 646, Stats.

Office of the Commissioner of Insurance

Private Sector Fiscal Analysis for Rule Sections Ins 9.25 (8) and 9.27 (4), Wis. Adm. Code, relating to preferred provider plan applicability dates and affecting small business.

This rule change will have no significant effect on the private sector regulated by OCI.

Notice of Hearings
Natural Resources
(Environmental Protection—
Water Regulation)
[CR 06–126]

NOTICE IS HEREBY GIVEN that pursuant to ss. 30.12 (1) and (3) (br), 30.2035, 30.206 and 227.11 (2), Stats., interpreting ss. 30.12 (1), (3) and (3m) and 30.206, Stats., the Department of Natural Resources will hold public hearings on the creation of subch. III of ch. NR 328, Wis. Adm. Code, relating to bank erosion control on rivers and streams. The purpose of the proposed ch. NR 328, subch. III is to create additional general permits to streamline the review of applications for erosion control structures. The proposed subchapter establishes design, construction and location standards for bank erosion control structures placed in rivers and streams under general permits. General permits for biostabilization and integrated bank treatment meeting Natural Resources Conservation Service (NRCS) technical standards would be available throughout the predominantly agricultural and urban ecoregions of Wisconsin (where flooding is generally frequent and more severe, eroding banks and delivering sediment loads that often impair habitat and water quality and adjacent land uses frequently limit the area available for natural channel movement). A threshold level of bank erosion potential is required for sites to be eligible for the integrated bank treatment general permit so that rock armoring is avoided in areas where aquatic habitat is very good and could be harmed by such treatment. The rule establishes a standard map for identifying ecoregions and urban areas as well as a method for determining bank erosion potential.

This rule replaces and improves upon emergency orders that have been in place for similar general permits during the 2005 and 2006 construction seasons.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., the proposed rule may have an impact on small businesses. The initial regulatory flexibility analysis is as follows:

a. Types of small businesses affected: Any business wishing to do bank erosion control on a river or stream.

b. Description of reporting and bookkeeping procedures required: Permits were previously required under s. 30.12, Stats., and no further requirements were added as a result of this rule.

c. Description of professional skills required: Some businesses may prefer to use consulting design companies. However, the rules as designed so that lay personnel can apply the assessment protocols themselves with little formal training.

The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

NOTICE IS HEREBY FURTHER GIVEN that the Department will hold an open house starting at 5:00 p.m. prior to each hearing. Department staff will be available to answer questions regarding the proposed rules.

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held on:

Monday, **December 11, 2006** at 6:00 p.m.

Front Room, DNR West Central Region Hdqrs., 1300 W. Clairemont, Eau Claire

Tuesday, **December 12, 2006** at 6:00 p.m.

Room 202, UW-Oshkosh Forrest Library, 800 Algoma Blvd., Oshkosh

Wednesday, **December 13, 2006** at 6:00 p.m.

Upstairs Conference Room, Wausau State Highway Patrol, 2805 Martin Ave., Wausau

Thursday, **December 14, 2006** at 6:00 p.m.

Gathering Waters Room, DNR South Central Region Hdqrs., 3911 Fish Hatchery Road, Fitchburg

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Paul Cunningham at (608) 267-7502 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

According to 2004 data, there are 240 permits processed annually for shore protection on rivers and streams. Of that amount, 216 require an individual permit at a cost of \$300, and 24 are exempt from a permit fee because they are done by state or federal agencies. Therefore, annual permit revenue under current law totals \$64,800 (216 permits x \$300).

Under the proposed rule, it is estimated that 180 projects would require a \$300 individual permit, 36 projects would be eligible for a new \$50 general permit, and 24 would continue to be fee-exempt because they would be done by state or federal agencies. Therefore, annual permit revenue under the proposed rule is estimated to be \$55,800 [(180 individual permits x \$300) + (36 general permits x \$50)]. This will result in a decrease of \$9,000 in annual permit revenue.

By converting an estimated 36 individual permits per year to general permits, the proposed rule would streamline the permitting process and thus decrease the amount of work to process permits by 416 hours, or 0.2 FTE, with an associated cost reduction of \$13,300 in salary and fringe benefits (416 hours x \$32/hour salary and fringe).

Submission of Comments

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: [http:// adminrules.wisconsin.gov](http://adminrules.wisconsin.gov). Written comments on the proposed rule may be submitted via U.S. mail to Paul Cunningham, Bureau of Watershed Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until January 5, 2007. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Cunningham.

Notice of Hearing Natural Resources (Environmental Protection—Water Supply) [CR 06–121]

NOTICE IS HEREBY GIVEN that pursuant to ss. 281.12, 281.34 and 227.11 (2) (a), Stats., interpreting s. 281.34, Stats., the Department of Natural Resources will hold public hearings on the creation of ch. NR 820, Wis. Adm. Code, relating to annual reporting of groundwater pumping information from high capacity wells, designation of groundwater management areas, environmental review of high capacity well applications for impacts on groundwater protection areas and springs and evaluation of wells with greater than 95% water loss.

2003 Wisconsin Act 310 expands the Department's authority over high capacity wells to include consideration of impacts to certain sensitive water resources, requires annual reporting of groundwater pumping from high capacity wells and directs the Department to designate two groundwater management areas. The proposed ch. NR 820, Wis. Adm. Code, implements the provisions of 2003 Wisconsin Act 310. Under the proposed code, all owners of high capacity wells will be required to submit annual pumping reports to the department. The rule also establishes the areal extent of two groundwater management areas, one in the southeast part of the state and another in the northeast part of the state. The two areas include the entire area of each city, village and town in which the level of the underlying groundwater has dropped by at least 150 feet as a result of groundwater pumping.

Proposed ch. NR 820, Wis. Adm. Code, establishes processes and criteria to guide the review of proposed high capacity wells near springs, trout stream, outstanding resource waters (ORW) and exceptional resource waters (ERW). The rule includes screening criteria that will be used to determine the necessary level of environmental review for wells that are proposed to be located near springs or within a groundwater protection area (within 1200 feet of a trout stream, ORW or ERW). Applicants for wells near springs or in groundwater protection areas will be required to submit information to demonstrate that the proposed well will not result in significant adverse environmental impact to the surface water resource. When it is determined that a proposed well could result in a significant adverse environmental impact, the applicant may be required to submit an environmental impact report and the department will prepare an environmental assessment prior to approving or denying

the proposed well. Any approval issued for a well near a spring or within a groundwater protection area must include conditions to ensure that significant adverse environmental impact does not result from construction and operation of the well. Similarly, the proposed rule requires that the department prepare an environmental assessment for any high capacity well that has a water loss of greater than 95%. In addition, the department must include conditions in its approvals to ensure that wells with high water loss do not result in significant adverse environmental impact to nearby water resources.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., the proposed rules may have an impact on small businesses. The initial regulatory flexibility analysis is as follows:

a. Types of small businesses affected: Any small business, including agriculture, golf courses, non-metallic mining, condominium developments, various industrial/commercial uses, recreational facilities, ethanol production and food processing.

b. Description of reporting and bookkeeping procedures required: Annual reporting of water use of all high capacity well owners and specifies informational requirements for high capacity well applications that involve wells located near springs and within groundwater protection areas. Owners will need to keep records of the amount of water pumped from each well.

c. Description of professional skills required: The owner of a high capacity well may need to hire qualified persons to install water metering devices on the wells in order to compile the annual pumpage data. In addition, owners of proposed wells that are to be constructed near springs or in a groundwater protection area will need to contract with qualified consultants to provide the necessary hydrological analysis and other information required in such instances.

The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held on:

Wednesday, **December 13, 2006** at 1:00 p.m.

Multipurpose Room, Dunn Co. Judicial Center, 615 Stokke Parkway, Menomonie

Friday, **December 15, 2006** at 10:00 a.m.

Room 207, Green Bay City Hall, 100 N. Jefferson St., Green Bay

Monday, **December 18, 2006** at 1:00 p.m.

Rooms 255 & 259, Waukesha Admin. Bldg., 515 Moorland Rd, Waukesha

Enter through Courthouse

Tuesday, **December 19, 2006** at 2:30 p.m.

St. Croix Room, Dept. of Admin. Bldg., 101 E. Wilson Street, Madison

Wednesday, **December 20, 2006** at 6:00 p.m.

Conference Rooms 1 & 2, Portage Co. Courthouse Annex, 1462 Strong's Ave., Stevens Point

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Larry Lynch at (608) 266-7553 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

The proposed rule does not create any processes or requirements that were not contemplated and evaluated at the time that Act 310 was enacted. The fiscal impacts associated with Act 310 were recognized by the Legislature; there are no additional state or local government fiscal impacts associated with this proposed rule.

Submission of Comments

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: [http:// adminrules.wisconsin.gov](http://adminrules.wisconsin.gov). Search this website using Natural Resources Board Order No. DG-37-06. Written comments on the proposed rule may be submitted via U.S. mail to Mr. Lawrence Lynch, Bureau of Drinking Water and Groundwater, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until January 5, 2007. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. If you do not have Internet access, a personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Lynch.

Notice of Hearing Regulation and Licensing [CR 06-125]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Regulation and Licensing in s. 227.11 (2), Stats., and subch. VI of ch. 440, Stats., as created by section 2336m. of 2005 Wisconsin Act 25, and s. 440.03 (13) (a), (b) and (c), Stats., and interpreting subch. VI of ch. 440, Stats., and s. 440.03 (13) (a), (b) and (c), Stats., the Department of Regulation and Licensing will hold a public hearing at the time and place indicated below to consider an order to create s. RL 4.07 (66m) and chs. RL 174 to 177, relating to the registration of sanitarians.

Hearing Date, Time and Location

Date: December 13, 2006
Time: 9:00 A.M.
Location: 1400 East Washington Avenue
 (Enter at 55 North Dickinson Street)
 Room 121C
 Madison, Wisconsin

Appearances at the Hearing:

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Legal Counsel, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by December 13, 2006, to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing

Statutes interpreted: Subchapter VI of chapter 440, Stats., as created by section 2336m. of 2005 Wisconsin Act 25, and s. 440.03 (13) (a), (b) and (c), Stats.

Statutory authority: Section 227.11 (2), Stats., and subchapter VI of chapter 440, Stats., as created by section 2336m. of 2005 Wisconsin Act 25, and s. 440.03 (13) (a), (b) and (c), Stats.

Explanation of agency authority: The Department of Regulation and Licensing has the authority to promulgate rules interpreting the provisions of any statute enforced or administered by it and to effectuate the purpose of the statute. The creation of administrative rules for the regulation of registered sanitarians is necessary to implement newly created subch. VI of ch. 440, Stats., pursuant to 2005 Wisconsin Act 25.

Related statute or rule: The proposed rules are intended to replace the former rules in ch. HFS 150.

Plain language analysis: The creation of administrative rules for the regulation of registered sanitarians is necessary to implement newly created subch. VI of ch. 440, Stats., pursuant to 2005 Wisconsin Act 25, s. 2336m. Registered sanitarians were previously regulated in ch. HFS 160.

The proposed rules shall apply to all persons educated and experienced in the field of environmental health who desire to be registered as a sanitarian. The rules will establish minimum standards and qualifications for licensure of registered sanitarians, set standards for sanitarians registered in other states to practice as registered sanitarians in this state, as well as define basis for discipline of credential holders. The rules contain definitions, registration requirements, qualifications for examination, qualifying work experience requirements, reciprocal licensure, and standards of conduct.

Section RL 4.07 (66m) is created to include registered sanitarians in the department's rules relating to conducting investigations to determine whether an applicant for registration as a sanitarian has been charged with or convicted of a crime.

Summary of, and comparison with, existing or federal regulation: There is no existing or federal regulation pending.

Comparison with rules in adjacent states:

Minnesota: Minnesota regulates and licenses environmental health specialists and sanitarians pursuant to Minnesota Statute 214.3, to plan, develop, and enforce health and sanitation standards and prevent the spread of the communicable diseases. The regulations specify the requirements and procedures for obtaining licensure, including education, examination, work experience and fees.

Michigan: Michigan regulates and licenses sanitarians pursuant to their Public Health Code sec. 1615, with specified requirements for qualifying education, examination and experience.

Illinois: Illinois regulates and licenses environmental health practitioners pursuant to Part 1247 of the Environmental Health Practitioners Act. The Illinois rules include provisions governing licensure and examination requirements, approved educational programs, work experience, supervision, endorsement, renewals and fees.

Iowa: Iowa does not regulate or license sanitarians. A voluntary registration program is operated by the Iowa Environmental Health Association.

The comparison information with the rules in adjacent states was obtained directly from a review of the state statutes and rules. The rule revisions were based on information from various sources and recommendations from advisory

committee members who were knowledgeable about the profession. The comparison of the proposed rules to the adjacent states demonstrates that the rules are comparable to those in adjacent states.

Summary of factual data and analytical methodologies:

No study resulting in the collection of factual data was used relating to this rule. The primary methodology for creating the rule is the department's analysis and determination that a rule change is necessary.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report: The proposed rules would reflect the newly created statutory requirements for the transfer of credentialing authority of registered sanitarians to the Department of Regulation and Licensing. The rules will establish minimum standards and qualifications for licensure of registered sanitarians, set standards for sanitarians registered in other states to practice as registered sanitarians in this state, as well as define basis for discipline of credential holders and are intended to replace the former rules in ch. HFS 160.

There are 579 registered sanitarians licensed in Wisconsin. Of the 579 registered sanitarians, a very small percentage of them probably work in small business. The field is primarily made up of state and local public health officials. This rule change will not have an effect on small business.

Section 227.137, Stats., requires an "agency" to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an "agency" in this section.

Anticipated costs incurred by private sector: The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal Estimate

The department estimates that the proposed rule will have no significant fiscal impact.

Effect on small business:

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at larry.martin@drl.state.wi.us, or by calling (608) 266-8608.

Agency Contact

Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935. Telephone: (608) 266-0495. Email: pamela.haack@drl.state.wi.us.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email at pamela.haack@drl.state.wi.us. Comments must be received on or before December 13, 2006, to be included in the record of rule-making proceedings.

Text of Rule

SECTION 1. RL 4.07 (66m) is created to read:

RL 4.07 (66m) Registered sanitarian.

SECTION 2. Chapters RL 174 to 177 are created to read:

Chapter RL 174

REGISTERED SANITARIANS AUTHORITY, SCOPE, PURPOSE AND DEFINITIONS

RL 174.01 Authority and intent. The rules in chs. RL 174 to 177 are adopted pursuant to s. 440.98, Stats., and are intended to replace the former rules in ch. HFS 160.

RL 174.02 Scope. The rules in chs. RL 174 to 177 shall apply to all persons educated and experienced in the field of environmental health who desire to be registered as a "registered sanitarian."

RL 174.03 Purpose. Sanitarian registration minimum qualifications are established to:

- (1) Safeguard life, health and the environment.
- (2) Identify persons qualified in environmental health services.
- (3) Develop reciprocity agreements with states having equivalent registration requirements.
- (4) Promote the delivery of environmental health services by qualified individuals certified on the basis of recognized examination.

RL 174.04 Definitions. (1) "Accredited college or university" means an educational institution that is accredited by a regional or national accrediting agency recognized by the U.S. Department of Education.

(2) "Department" means the department of regulation and licensing.

(3) "Environmental health" means the science and art which pertains to the protection of human health through the assessment, management, control and prevention of environmental factors that may adversely affect the health, comfort, safety or well being of individuals or the environment.

(4) "Field of environmental health" means employment, whether private or public, where the principles of environmental health are directly applied to one or more of the following areas:

- (a) Air quality.
- (b) Food protection.
- (c) Hazardous substances.
- (d) Product safety.
- (e) Housing.
- (f) Institutional health and safety.
- (g) Radiation protection.
- (h) Recreational areas and waters.
- (i) Solid waste management.
- (j) Vector control.
- (k) Water quality.
- (L) Wastewater technology and management.
- (m) Hazardous waste management.
- (n) Industrial hygiene.
- (o) Water supply.

(5) "Full-time equivalent employment" means an accumulation of 2,080 hours for one year of creditable employment experience in the field of environmental health. All creditable hours shall be within the scope of environmental health practice.

(6) "Nationally recognized professional examination" means a department approved written examination designed to assess the knowledge and competence of professional sanitarians.

(7) "Registered sanitarian" means a sanitarian or environmental health professional registered in accordance with the provisions of chs. RL 174 to 177 and s. 440.98, Stats.

(8) "Registered sanitarian advisory committee" means the committee established by the secretary of the department, pursuant to s. 440.042, Stats., to advise the department in matters related to the administration of chs. RL 174 to 177.

Chapter RL 175

APPLICATION FOR REGISTRATION

RL 175.01 Application. Any person seeking a certificate of registration as a sanitarian shall submit a completed application on forms supplied by the department.

Note: Application forms are available on request to the department located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin, 53705, or from the department's website at: <http://drl.wi.gov>.

RL 175.02 Qualifications for examination. (1) The department shall issue an approval for examination to an individual who meets the educational and qualifying work experience requirements under this chapter and whose application has been approved by the department.

(2) An applicant for examination shall submit evidence, including verified college or university transcripts, and completion of one of the following combinations of education and experience:

(a) A baccalaureate or higher degree in environmental health from an accredited college or university with at least 30 semester or 45 quarter hour academic credits in environmental, physical, biological, chemical, and environmental health areas and one year of full-time equivalent employment in the field of environmental health.

(b) A baccalaureate or higher degree in physical or biological sciences from an accredited college or university with at least 30 semester or 45 quarter hour academic credits in environmental, physical, biological, chemical, and environmental health areas and 2 years of full-time equivalent employment in the field of environmental health.

(c) A baccalaureate or higher degree from an accredited college or university and 4 years of full-time equivalent employment in the field of environmental health.

(d) An associate degree from an accredited college, community college or technical institute in environmental, physical, biological and chemical sciences, and 5 years of full-time equivalent employment in the field of environmental health.

(e) An associate degree from an accredited college, community college or technical institute and 8 years of full-time equivalent employment in the field of environmental health.

(3) Proof of required education shall be submitted in the form of an original official transcript and shall be sent by the educational institution to the department.

RL 175.03 Verification of sanitarian experience. For purposes of verifying the qualified sanitarian work experience required under this chapter, an applicant shall submit a detailed description of the position held, length of employment, duties of the position, and name of work supervisor.

RL 175.04 Employer work verification. An applicant shall provide verification from their work supervisor of the applicant's work experience describing the applicant's job duties and number of hours worked per year in the field of environmental health.

RL 175.05 Application review. (1) An applicant shall submit a completed application for examination and the application fees prior to the scheduled review of applications by the department. The department application procedures and application fees policies in ch. RL 4 shall apply to the review and processing of applications for examination.

(2) The department, in consultation with the advisory committee, shall make an investigation as it deems necessary to determine if the applicant shall be admitted to the examination for registration and may request additional documentation prior to approving an application.

(3) The applicant shall be notified in writing of the department's decision regarding their application. An applicant may appeal the application review decision of the department in accordance with ch. RL 1 procedures.

RL 175.06 Reciprocal licensure and certification. Upon application and payment of the appropriate application fee, an applicant who holds a certificate of registration or license as a sanitarian in good standing issued by the proper authority of any state, or territory, or possession of the United States, foreign country, or any other organization that registers or certifies sanitarians, may receive a certificate in this state provided that the requirements for the registration in the other jurisdiction are comparable to the qualifications for registration in this chapter. The successful passage of a recognized professional examination of any other state, territory or possession, country or organization, may be construed as tantamount to passing the required examination recognized by the department, provided that the scope of the examination and the applicant's passing score is comparable to the examination and passing score administered under this chapter.

Chapter RL 176 – EXAMINATIONS

RL 176.01 Examination requirements. (1) All applicants for registration shall be required to pass a nationally recognized professional examination or other professional examination approved by the department.

(2) Notice of eligibility to take the national examination shall be provided to those who have completed and approved applications on file. The notice of eligibility shall be presented by the applicant to gain attendance to the examination site.

(3) The applicant shall notify the department and testing agency of any change of their mailing address.

RL 176.02 Notice of examination results. (1) An applicant for registration shall receive notification of their examination results.

(2) An applicant must receive a passing grade determined by the department to represent the minimum competence to practice. The department may accept the passing grade recommendation of a testing agency whose examination has been approved by the department.

(3) The department may refuse to release the grade or issue a certificate of registration if the department determines that an applicant violated the rules of conduct of the examination or otherwise acted dishonestly.

RL 176.03 Reexamination. An applicant who fails to achieve passing grades on the examinations required under this chapter may reapply for examination on forms provided by the department. No applicant shall make more than 3 attempts to pass the examination within any 12 month period. For each reexamination, the applicant shall pay the reexamination fee specified by the department.

Note: Application forms are available on request to the department located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708 or from the department's website at: <http://drl.wi.gov>.

Chapter RL 177 – UNPROFESSIONAL CONDUCT

RL 177.01 Unprofessional conduct. A registered sanitarian shall comply with the standards of practice established by s. 440.98, Stats., and this chapter. The

violation of any provision of this chapter, or the aiding or abetting of any of the following, without limitation because of enumeration, constitutes unprofessional conduct and may result in disciplinary action:

(1) Making a materially false, misleading, deceptive, or fraudulent representation in an application for a certificate of registration, including but not limited to, misrepresenting qualifications, education, experience, credentials or professional affiliations.

(2) An administrative or judicial determination that the registrant has made false, misleading, deceptive, or fraudulent representations in the course of practice as a registered sanitarian.

(3) Any sanction, suspension, or disciplinary action taken against the registrant in this state or another jurisdiction arising out of any occupational or professional conduct.

(4) Violating any rule adopted by the department relating to the practice of a registered sanitarian, or any term, provision, or condition of any order issued by the department.

(5) Failing to practice as a registered sanitarian within the scope of the registrant's competence, education, training and experience.

(6) Practicing in a manner that substantially departs from the standard of care ordinarily exercised by a registered sanitarian or any gross professional negligence, incompetence, or misconduct.

(7) Failing to notify the department of any criminal conviction within 30 days after the date of conviction and failing to provide a copy of the judgment of conviction to the department. Conviction of any crime which is substantially related to the practice of a registered sanitarian shall be grounds for discipline against the registrant.

(8) Subject to ss. 111.321, 111.322 and 111.335, Stats., to have been convicted of a felony in this state or a crime in another state that if committed in this state would be a felony.

(9) Failing to cooperate in a timely manner with the department's investigation of a complaint filed against the registrant. A registrant who takes longer than 30 calendar days to respond to a request of the department is subject to a rebuttable presumption of failing to act in a timely manner under this subsection.

Notice of Hearing

Revenue

[CR 06-107]

Notice is hereby given that, pursuant to s. 227.11 (2) (a), Stats., and interpreting ss. 139.362 and 139.801, Stats., the Department of Revenue will hold a public hearing at the time and place indicated below, to consider the creation of rules relating to cigarette and tobacco products tax bad debt deductions.

Hearing Information

The hearing will be held at 9:00 A.M. on Friday, **December 15, 2006**, in the Events Room (1st floor) of the State Revenue Building, located at 2135 Rimrock Road, Madison, Wisconsin.

Handicap access is available at the hearing location.

Comments on the Rule

Interested persons are invited to appear at the hearing and may make an oral presentation. It is requested that written comments reflecting the oral presentation be given to the department at the hearing. Written comments may also be

submitted to the contact person shown below no later than December 22, 2006, and will be given the same consideration as testimony presented at the hearing.

Contact Person

Small Businesses:

Tom Ourada

Dept. of Revenue

Mail Stop 624-A

2135 Rimrock Road

P.O. Box 8933

Madison, WI 53708-8933

Telephone (608) 266-8875

email: tourada@dor.state.wi.us

Others:

Dale Kleven

Dept. of Revenue

Mail Stop 6-40

2135 Rimrock Road

P.O. Box 8933

Madison, WI 53708-8933

Telephone (608) 266-8253

email: dkleven@dor.state.wi.us

Analysis by the Department of Revenue

Statutes interpreted: ss. 139.362 and 139.801, Stats.

Statutory authority: s. 227.11 (2) (a), Stats.

Explanation of agency authority: Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

Related statute(s) or rule(s): There are no other applicable statutes or rules.

Plain language analysis: This proposed rule clarifies the following as to when and how a person who pays cigarette taxes or a distributor who pays tobacco taxes is to claim the deduction allowed under ss. 139.362 and 139.801, Stats. for cigarette and tobacco products tax attributable to bad debt:

The deduction shall be claimed on the monthly tax report for the month in which the debt is written off as uncollectible and is eligible to be deducted as a bad debt under s. 166 of the Internal Revenue Code. A claimant shall complete Form CT-117, *Cigarette Distributor Bad Debt Deduction for Uncollectible Wisconsin Cigarette Tax*, or Form TT-117, *Tobacco Products Distributor Bad Debt Deduction for Uncollectible Wisconsin Tobacco Products Tax*, for all amounts claimed.

Payments and credits applied to a debt before it is written off as uncollectible shall be apportioned to the amount of such debt attributable to cigarette or tobacco products tax using the ratio of the total cigarette or tobacco tax to be paid per the invoice to the total amount to be paid per the invoice. The amount so apportioned shall reduce the amount of debt attributable to cigarette or tobacco tax to arrive at the amount of the deduction.

If the deduction is claimed for a month when the cigarette or tobacco products tax rate is different from the rate in effect when the cigarettes or tobacco products were sold, the tax rate in effect when the cigarettes or tobacco products were sold shall be used to determine the deduction.

A deduction shall not be allowed for cigarette and tobacco products tax attributable to bad debt incurred on illegal sales of cigarettes or tobacco products.

A recovery of a bad debt for which a deduction was claimed shall be included in the monthly tax report for the month in which the recovery occurs, and the tax shall be paid with the report.

Summary of, and comparison with, existing or proposed federal regulation: There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Comparison with similar rules in Illinois, Iowa, Michigan, and Minnesota:

Illinois – No similar rule exists.

Iowa – No similar rule exists.

Michigan – Michigan has a provision for a tobacco products tax bad debt deduction. The amount deducted must be charged off as uncollectible on the books of the licensee and must be eligible to be claimed as a bad debt deduction for federal income tax purposes. A recovery of any amount that has been deducted must be paid back by the licensee. Only the portion of the bad debt attributable to tobacco products tax is deductible.

Minnesota – Minnesota has a provision for a credit for cigarette taxes attributable to a bad debt. The taxes must have been included in a transaction the consideration for which was a debt owed to the taxpayer and which became uncollectible, but only in proportion to the portion of debt that became uncollectible. The debt must qualify as a bad debt for federal income tax purposes. A recovery of the cigarette taxes claimed as a refund must be paid back by the taxpayer.

Summary of factual data and analytical methodologies: 2005 Wisconsin Act 25 created ss. 139.362 and 139.801, Stats., which allow a deduction for cigarette and tobacco products tax attributable to bad debt. In reviewing the statutory language providing for the deduction, the department concluded that it would need to provide clarification as to when and how the deduction may be claimed. Starting with language from s. Tax 4.12, which clarifies when and how a supplier required to be licensed by the department may recover the motor vehicle fuel tax from the department when a purchaser is unable to pay the tax to the supplier, the department developed this proposed rule.

Analysis and supporting documents used to determine effect on small business: The proposed rule provides clarification that will help determine the allowable amount of the deduction for cigarette and tobacco products tax attributable to bad debt under ss. 139.362 and 139.801, Stats., and when the deduction may be claimed. As the proposed rule does not impose any significant financial or other compliance burden, the department has determined that it does not have a significant effect on small business.

Anticipated costs incurred by private sector: This proposed rule does not have a significant fiscal effect on the private sector.

Effect on small business: This proposed rule does not have a significant effect on small business.

Agency contact person: Please contact Dale Kleven at (608) 266-8253 or dkleven@dor.state.wi.us, if you have any questions regarding this proposed rule.

Place where comments are to be submitted and deadline for submission: Comments may be submitted to the contact person shown below no later than one week after the public hearing on this proposed rule is conducted. Information as to the place, date, and time of the public hearing will be published in the Wisconsin Administrative Register.

Dale Kleven
Department of Revenue
Mail Stop 6-40
2135 Rimrock Road
P.O. Box 8933
Madison, WI 53708-8933

Text of Rule

SECTION 1. Tax 9.70 is created to read:

Tax 9.70 Cigarette and tobacco products tax bad debt deductions. (1) PURPOSE. This section clarifies when and how a person who pays cigarette taxes or a distributor who

pays tobacco taxes may claim a deduction under ss. 139.362 and 139.801, Stats., for cigarette and tobacco products tax attributable to bad debt.

(2) DEFINITIONS. In this section:

(a) "Bad debt" has the meaning given in ss. 139.362(1) and 139.801(1), Stats.

(b) "Cigarette" has the meaning given in s. 139.30(1m), Stats.

(c) "Distributor" has the meaning given in s. 139.75(4), Stats.

(d) "Tobacco products" has the meaning given in s. 139.75(12), Stats.

(3) BAD DEBTS. (a) *Deduction from measure of tax.* Using form CT-117, titled "Cigarette Distributor Bad Debt Deduction for Uncollectible Wisconsin Cigarette Tax," or form TT-117, titled "Tobacco Products Distributor Bad Debt Deduction for Uncollectible Wisconsin Tobacco Products Tax," a person who pays cigarette taxes or a distributor who pays tobacco taxes may claim a deduction on the monthly tax report for the cigarette and tobacco products tax attributable to bad debt that is written off as uncollectible in their books and records and that is eligible to be deducted as bad debt under s. 166 of the internal revenue code.

(b) *When to report the deduction.* The deduction under par. (a) shall be claimed on the monthly tax report that is submitted for the month in which the amount of the deduction is written off as uncollectible and in which such amount is eligible to be deducted as a bad debt under s. 166 of the internal revenue code.

Example: A distributor writes off a debt attributable to tobacco products tax on September 10, 2005. At the time the debt is written off it is eligible to be deducted as a bad debt under s. 166 of the internal revenue code. The distributor may claim a bad debt deduction by attaching a completed form TT-117 to the monthly tobacco products tax report filed for the month of September 2005.

(c) *Recovery of bad debt.* If a person who pays cigarette taxes or a distributor who pays tobacco taxes subsequently collects in whole or in part any bad debt for which a deduction is claimed under par. (a), they shall include the amount collected in the monthly tax report filed for the month in which the amount is collected and shall pay the tax with the report.

(d) *Payments and credits.* Payments and credits applied to a debt before it is written off as uncollectible shall be apportioned to the amount of such debt attributable to cigarette or tobacco products tax on the basis of the ratio of the cigarette or tobacco products tax to be paid per the invoice to the total amount to be paid per the invoice. The amount so apportioned shall reduce the amount of debt attributable to cigarette or tobacco products tax to arrive at the deduction under par. (a).

Examples: 1) At a time when the cigarette tax rate is 3.85¢ per stick, Person A sells cigarettes to Customer B. The amount of the invoice is \$10,000, consisting of cigarette tax of \$1,540, cost of cigarettes of \$6,000 and sundries of \$2,460. Customer B defaults and discontinues operations, leaving a balance due to Person A of \$2,100, which includes interest of \$200 not included in the original invoice amount. The deductible tax is \$292.60, computed as follows:

Tax per invoice	\$1,540.00
Invoice amount	\$10,000.00
Unpaid invoice amount	<u>-1,900.00</u>
Paid invoice amount	\$8,100.00
Portion constituting tax*	<u>x.154</u>
Tax paid	- <u>\$1,247.40</u>

Tax that may be deducted \$292.60

*\$1,540 tax P \$10,000 invoice amount = .154.

2) At a time when the tobacco products tax rate is 25% of the manufacturer’s wholesale list price, Distributor A sells tobacco products to Customer B. The amount of the invoice is \$9,500, consisting of tobacco products tax of \$1,250, cost of tobacco products of \$5,000 and sundries of \$3,250. Customer B defaults and discontinues operations, leaving a balance due to Distributor A of \$3,000, which includes interest of \$200 not included in the original invoice amount. The deductible tax is \$365.60, computed as follows:

Tax per invoice		\$1250.00
Invoice amount	\$9,500.00	
Unpaid invoice amount –	<u>-2,800.00</u>	
Paid invoice amount	\$6,700.00	
Portion constituting tax*	<u> x.132</u>	
Tax paid		- <u>\$884.40</u>
Tax that may be deducted		\$365.60

*\$1,250 tax P \$9,500 invoice amount = .132.

(e) *Tax rate change.* If the deduction under par. (a) is claimed for a month when the cigarette or tobacco products

tax rate is different from the tax rate in effect when the cigarettes or tobacco products were sold, the tax rate in effect when the cigarettes or tobacco products were sold shall be used to determine the amount of the deduction.

(f) *Illegal sales.* No deduction under par. (a) shall be allowed for cigarette and tobacco products tax attributable to bad debt incurred on sales of cigarettes or tobacco products sold in violation of state or federal law.

Example: Sales of banned products sold in violation of the directory of certified manufacturers and brands, s. 995.12, Stats.

Note: Section Tax 9.70 interprets ss. 139.362 and 139.801, Stats.

Note: Sections 139.362 and 139.801, Stats., were created by 2005 Wis. Act 25, and took effect on September 1, 2005.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Initial Regulatory Flexibility Analysis

This proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Rule orders filed with the revisor of statutes bureau

The following administrative rule orders have been filed with the Revisor of Statutes Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication date of these rules could be changed. Contact the Revisor of Statutes Bureau at gary.poulson@legis.state.wi.us or (608) 266-7275 for updated information on the effective dates for the listed rule orders.

Administration (CR 06-084)

An order affecting ch. Adm 47, relating to the administration of the Wisconsin Land Information Program.
Effective 1-1-07.

Insurance (CR 06-083)

An order affecting ch. Ins 9, relating to defined network plans, preferred provider plans, limited service health organizations and limited scope plans and affecting small business.
Effective 1-1-07.

Marriage and Family Therapy, Professional counseling and Social Work Examining Board (CR 06-054)

An order affecting ch. MPSW 11, relating to required examinations for licensure as a professional counselor.
Effective 1-1-07.

Marriage and Family Therapy, Professional counseling and Social Work Examining Board (CR 06-055)

An order affecting ch. MPSW 13, relating to psychotherapeutic counseling by professional counselors.
Effective 1-1-07.

Regulation and Licensing (CR 06-060)

An order affecting chs. RL 164 and 165, relating to a code of conduct and renewal requirements for substance abuse professionals.
Effective 1-1-07.

Transportation (CR 06-089)

An order affecting ch. Trans 105, relating to licensing of driver schools and instructors.
Effective 1-1-07.

Rules published with this register and final regulatory flexibility analyses

The following administrative rule orders have been adopted and published in the November 30, 2006, Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.

For subscription information, contact Document Sales at (608) 266-3358.

Agriculture, Trade and Consumer Protection (CR 06-028)

An order affecting chs. ATCP 1, 11, 13, 17, 29, 40, 42, 50, 55, 69, 70, 80, 81, 82, 85, 88, 92, 105, 111, 113, 118, 131, 134, 155 and 158, relating to technical rule changes. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

Under s. 895.59, Stats. (created by 2003 Wis. Act 145), agencies are required to describe, by rule, the discretion that they may exercise when enforcing rules against small business. This rule describes the discretion exercised by the Department of Agriculture, Trade and Consumer Protection ("DATCP"). Because DATCP already exercises considerable enforcement discretion, this rule does not constitute a major change in DATCP policy.

This rule makes the following minor technical changes to rules administered by DATCP:

Conforms fertilizer tonnage fee (agricultural chemical cleanup surcharge) to the current statute. The department is already charging the (lower) statutory fee, not the obsolete (higher) fee that appears in the current rule (ATCP 40).

- Updates technical standards that are incorporated by reference in current commercial feed rules (ATCP 42). The updates refer to the latest edition (2006) of the official publication of the Association of American Feed Control Officials.

Updates current standards for the professional certification of agricultural engineering practitioners. DATCP coordinated these revisions with the United States Department of Agriculture (NRCS) and county land conservation departments, including practitioners who serve federal, state and county conservation programs.

Clarifies DATCP's meat holding order and condemnation authority (ATCP 55).

Eliminates an inconsistency between rules related to the legal "shelf life" of smoked fish (one rule says 17 days, the other says 21 days). This rule makes the standard 21 days.

- Changes current dairy plant rules (ATCP 80) to make them consistent with current federal standards. This includes minor technical changes related to pasteurization standards, thermometers and temperature readings, as well as updates to technical standards incorporated by reference (ATCP 80 Appendix). The updates refer to the latest editions of the 3-A Sanitary Standards and Accepted Practices published by the 3-A Sanitary Standards, Inc.

- Updates technical standards that are incorporated by reference in current weights and measures rules (ATCP 92). The updates refer to the latest editions (2006) of current

weights and measures handbooks published by the National Institute of Standards and Technology.

Clarifies that local weights and measures inspectors must be civil service employees (conforms rule to current statute).

Eliminates minor obsolete accounting provisions in ATCP 105 related to the calculation of cigarette "cost" for purposes of the Unfair Sales Act ("minimum markup law").

Clarifies the relationship between the home improvement code (ATCP 110) and the basement waterproofing code (ATCP 111), both of which apply to basement waterproofing services.

Conforms car rental notice requirements (ATCP 118) to current statute.

Clarifies prohibition against misleading charity claims in coupon book schemes (ATCP 131).

- Repeals current rules related to dairy cattle grades (ATCP 158), because the rules are obsolete and no longer used.

- Corrects typographical errors and cross-references, eliminates obsolete provisions, conforms rules to current statutes, creates clarifying notes, and makes other non-substantive drafting and organizational changes to current rules.

Businesses Affected by the Rule

This rule affects businesses, including small businesses, which are currently regulated by DATCP. Those businesses may include agricultural producers, food processors and food distributors, as well as wholesalers and retailers of a wide variety of other products and services. This rule will not have a significant effect on any of those businesses. This rule merely clarifies current law and policy, and makes minor technical changes to current rules.

This rule will not have a significant impact on small businesses. DATCP already exercises considerable enforcement discretion, including enforcement discretion related to small business. This rule merely codifies current DATCP policy, and does not constitute a major change in policy.

Because this rule creates no regulatory burden for small businesses, it was not necessary for the department to take steps to help small business comply with the rule. The enforcement discretion currently practiced by DATCP, and codified by this rule, benefits small business.

This rule does not have a significant impact on business, small or large. It does not impose additional costs on business, and it does not require additional professional services.

Summary of Comments by Legislative Review Committees

On July 20, 2006, DATCP transmitted the above rule for legislative review. The rule was assigned to the Senate

Committee on Agriculture and Insurance and to the Assembly Committee on Agriculture. No hearings were held on the rule and no modifications were requested.

Barbering and Cosmetology Examining Board (CR 05-118)

An order affecting chs. BC 1 to 4 and 8, relating to definitions, microdermabrasion, chemical exfoliation, managers, ear piercing, waxing, nail enhancement, licensing requirements and reinstatement of license. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator mt be contacted by email at larry.martin@drl.state.wi.us or by calling (608 266-8608).

Summary of Comments by Legislative Review Committees

No comments were received.

Chiropractic Examining Board (CR 06-051)

An order affecting chs. Chir 4, 5, 6, and 12, relating to nutritional counseling certification. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator mt be contacted by email at larry.martin@drl.state.wi.us or by calling (608 266-8608).

Summary of Comments by Legislative Review Committees

No comments were received.

Commerce (CR 06-071)

An order affecting ch. Comm 5, relating to installation of manufactured homes. Part effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

The proposed rules fulfill the statutory mandates dictated in 2005 Wisconsin Act 45. Section 101.96 (1) (a), Stats., requires the Department of Commerce to establish installation standards for the safe installation of manufactured homes in this state. Section 101.96 (1) (b), Stats., requires the department to establish a method for ensuring compliance with the installation standards and to establish criteria for the licensure of 3rd party inspectors. Section 101.96 (2), Stats., requires the department to establish a program for the licensure of manufactured home installers. The installer license program must include license eligibility, an examination, an examination waiver procedure, license term, and license fees.

Summary of Comments by Legislative Review Committees

No comments were received.

Emergency Management (CR 06-088)

An order to create ch. WEM 7, relating to the application process and criteria for determining eligibility for payments to local units of government for damages and costs incurred for major catastrophes. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

The proposed rule does not affect small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Emergency Management (CR 06-091)

An order to create ch. WEM 8, relating to the establishment of standards for the adoption of the mutual and box alarm system, also known as MABAS, that may be used for deploying fire, rescue and emergency medical services personnel and equipment in a multi-jurisdictional or multi-agency emergency response. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

The proposed rule does not affect small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Employment Relations Commission (CR 06-061)

An order affecting ch. ERC 33 Appendix Forms A, B and C, relating to procedures for the administration of the Municipal Employment Relations Act. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

The proposed rule does not affect small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Health and Family Services (CR 06-035)

An order affecting chs. HFS 62 and 75, relating to assessment and services for drivers with alcohol or controlled substance problems. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

The proposed rule does not have a significant economic impact on small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Health and Family Services (CR 06-075)

An order affecting chs. HFS 110 and 111, relating to licensing emergency medical technicians. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

The proposed rules do not have an adverse significant economic impact on small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Health and Family Services (CR 06-076)

An order affecting ch. HFS 137, relating to prescribing forms for use by physicians, technicians and tissue bank employees when removing organs and tissue, other than cardiovascular tissue from decedents. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

The proposed rule does not affect small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Natural Resources (CR 02-095)

An order affecting ch. NR 140, relating to groundwater quality standards. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

The Department does not believe that the proposed rule will have a significant economic impact on a substantial number of small businesses. The compliance and reporting requirements in ch. NR 140 are not changed by the proposed amendments. If a groundwater quality standard is exceeded, the owner or operator of a facility, practice or activity, including any small business, must report the violation to the appropriate regulatory agency. There is one new substance for which a facility may have to monitor and report exceedances and 3 existing substances with revised standards.

Summary of Comments by Legislative Review Committees

The rule was originally adopted by the Natural Resources Board on September 28, 2005. That rule included two new substances, Alachlor-ESA (ethane sulfonic acid) and molybdenum. The rule was referred to the Senate Committee on Natural Resources and Transportation and the Assembly Committee on Natural Resources. The Senate Committee on Natural Resources and Transportation held a public hearing on December 1, 2005 and did not request any modifications. The Assembly Committee on Natural Resources held a public hearing on November 16, 2005 and passed a motion requesting the Department to eliminate the proposed groundwater quality standard for Alachlor-ESA, and to request DNR to commence a scientific review panel to review the proposed groundwater standard for Alachlor-ESA, if Monsanto agreed to pay the full cost of the scientific review panel.

The Department consulted with the Department of Health and Family Services regarding the need for a scientific review of the groundwater quality standard developed for Alachlor-ESA. DHFS did not believe that an external review of the proposed Alachlor-ESA groundwater quality standard was necessary. At its June 28, 2006 meeting, the Natural Resources Board declined to make the proposed modification or to pursue an additional review of the proposed standard.

On July 20, 2006, the Assembly Committee on Natural Resources objected to the portion of Clearinghouse Rule No. 02-095 as it related to Alachlor-ESA. On August 10, 2006, the Joint Committee for Review of Administrative Rules held a public hearing. On August 22, 2006, the Joint Committee for Review of Administrative Rules met in executive session and adopted a motion requesting the Department to eliminate the proposed groundwater quality standard for Alachlor ESA

and requested the DNR to commence an external, independent, and unbiased scientific peer review of the proposed standard for Alachlor ESA, if the Monsanto Corporation agreed to pay the full cost of the scientific peer review.

On September 5, 2006, the Natural Resources Board again declined to initiate a peer review paid for by the Monsanto Corporation. The Natural Resources Board voted to return Clearinghouse Rule No. 02-095 with the standard for Alachlor-ESA intact. If the Joint Committee for Review of Administrative Rules allowed that standard to move forward, the Board would then direct the Department to conduct and implement a structured peer review, without any controlling influence by any outside party.

On September 6, 2006, the Joint Committee for Review of Administrative Rules concluded that that the Department had not complied with the Committee's modification request and objected to all portions of Clearinghouse Rule 02-095 that pertained to Alachlor and Alachlor-ESA.

Natural Resources (CR 05-105)

An order affecting ch. NR 102, relating to the designation of waters as outstanding or exceptional resource waters. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

The listing of additional waterbodies as outstanding or exceptional resource waters could potentially affect numerous interest groups. These include northern Wisconsin communities, developers, waterfront property owners and others who manage shoreland property, existing point source dischargers with a WPDES permit and future point sources seeking a WPDES permit.

Summary of Comments by Legislative Review Committees

The proposed rule was reviewed by the Senate Committee on Natural Resources and Transportation and the Assembly Committee on Natural Resources. On September 14, 2006, the Assembly Committee on Natural Resources held a public hearing on the proposed rule. No comments were received by the Department.

Natural Resources (CR 05-116)

An order affecting chs. NR 439, 460 and 484, relating to natural emission standards for hazardous air pollutants for industrial, commercial and institutional boilers and process heaters. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

The proposed rule will have not have a significant economic impact on a substantial number of small businesses. This is primarily because the proposed rule is identical to the existing federal rule, with which all affected sources are already required to comply.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Senate Committee on Natural Resources and Transportation and the Assembly Committee on Natural Resources. The Assembly Committee on Natural Resources held a public hearing on July 20, 2006. No comments were received by the Department as a result of the hearing.

Natural Resources (CR 06-024)

An order affecting chs. NR 135 and 340, relating to the reclamation of nonmetallic mining sites. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

The existing rule contains several provisions designed to help small businesses that are not affected by these proposed revisions. The proposed revisions provide less stringent requirements and reduce the burden in complying with fees and annual reports. The revisions do this by consolidating the compliance and reporting requirements through synchronization of the due dates for fees and reports as opposed to the current procedures which have two separate due dates. In the current rule, fees are paid in advance and reports are based on the previous year. The revision simplifies the situation by requiring that fee submittal and annual reporting are for the same calendar year. The proposed revisions to ch. NR 340 change program requirements for financial assurance. In those cases where operators are regulated by ch. NR 340, there will be more financial assurance options available to the operator.

Summary of Comments by Legislative Review Committees

The proposed rule was reviewed by the Senate Committee on Natural Resources and Transportation and the Assembly Committee on Natural Resources. On September 14, 2006, the Assembly Committee on Natural Resources held a public hearing on the proposed rule. No comments were received by the Department.

Natural Resources (CR 06-065)

An order affecting ch. NR 45, relating to regulation of firewood entering department lands and affecting small businesses. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

This rule will impact campers, firewood dealers and some family businesses which sell small quantities of firewood adjacent to state campgrounds. This rule is designed to prevent and limit the spread of invasive forest pests and diseases which pose a grave threat to Wisconsin forest and urban landscapes. This rule will help protect Wisconsin industries associated with tourism and forest products by protecting the resources on which they depend. The department and the Department of Agriculture, Trade and Consumer Protection are working to minimize the impacts on small businesses.

Summary of Comments by Legislative Review Committees

The rule was reviewed by the Assembly Committee on Forestry and the Senate Committee on Natural Resources and Transportation. There were no comments received from the committees.

Regulation and Licensing (CR 06-033)

An order affecting chs. RL 80, 81, 83, 84, 85, 86 and 87, relating to definitions, experience, educational courses, continuing education, conduct and renewal for real estate appraisers. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats. The department's Regulatory Review Coordinator may be contacted by email at larry.martin@drl.state.wi.us or by calling (608) 266-8608.

Summary of Comments by Legislative Review Committees

No comments were received.

Revenue (CR 06-063)

An order affecting ch. Tax 2, relating to the computation of the apportionment fraction of multistate businesses. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

The proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Revenue (CR 06-087)

An order affecting ch. Tax 1, relating to the discretion that the department will follow in the enforcement of rules and guidelines as they apply to a small business. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

The proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Workforce Development (CR 06-044)

An order affecting chs. DWD 12, 16, 17, 55 and 56, relating to Wisconsin Works, Emergency Assistance and child care. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

The proposed rules will affect private W-w agencies and contractors of W-2 agencies but will not have a significant economic impact on these businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

Workforce Development (CR 06-062)

An order affecting chs. DWD 218 to 225, relating to procedures for civil rights complaints and affecting small businesses. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

The proposed rules will affect small businesses but will not have a significant economic impact on these businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

**Workforce Development
(CR 06-095)**

An order affecting ch. DWD 59, relating to grants supporting community child care initiatives. Effective 12-1-06.

Summary of Final Regulatory Flexibility Analysis

the proposed rules do not affect small businesses.

**Summary of Comments by Legislative Review
Committees**

No comments were received.

Sections affected by rule revisions and corrections

The following administrative rule revisions and corrections have taken place in **November 2006**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

Revisions

Agriculture, Trade & Consumer Protection

Ch. ATCP 1

- S. ATCP 1.40
- S. ATCP 1.41
- S. ATCP 1.42

Ch. ATCP 13

- S. ATCP 13.01 (2) to (7)
- S. ATCP 13.02 (1) (intro.)

Ch. ATCP 17

- S. ATCP 17.01 (1) (c)
- S. ATCP 17.03 (4) (b)

Ch. ATCP 40

- S. ATCP 40.06 (2) (f)

Ch. ATCP 42

- S. ATCP 42.06 (3)
- S. ATCP 42.16 (1) (b) and (2) (b)
- S. ATCP 42.32 (2) (b)
- S. ATCP 42.40 (4) (b)
- S. ATCP 42.44 (6) (a)
- S. ATCP 42.54 (1) (a)

Ch. ATCP 55

- S. ATCP 55.14 (2) (a) and (3) (a)

Ch. ATCP 69

- S. ATCP 69.02 (1) (a) to (d)

Ch. ATCP 70

- S. ATCP 70.03 (4) (b)
- S. ATCP 70.22 (1) (g) and (2)

Ch. ATCP 80

- S. ATCP 80.02 (3) (e)
- S. ATCP 80.44 (2) Table 2
- S. ATCP 80.50 (2) (f) and (3) (d)
- S. ATCP 80.54 (1) (a)

Ch. ATCP 81

- S. ATCP 81.02 (2) and (3)

Ch. ATCP 85

- S. ATCP 85.01 (3) and (9)

Ch. ATCP 92

- S. ATCP 92.02 (1)
- S. ATCP 92.06 (1) (a), (b) and (2)
- S. ATCP 92.08 (1)
- S. ATCP 92.22 (1) (b)

Ch. ATCP 105

- S. ATCP 105.07 (1) (b)

Ch. ATCP 111

- S. ATCP 111.06

Ch. ATCP 113

- S. ATCP 113.01 (1) and (3)
- S. ATCP 113.02

Ch. ATCP 118

- S. ATCP 118.02 (2)

Ch. ATCP 131

- S. ATCP 131.07 (2) (a)

Ch. ATCP 134

- S. ATCP 134.02 (1m)

Ch. ATCP 155

- S. ATCP 155.01 (1), (3) and (4)

Ch. ATCP 158 (entire chapter)

Barbering and Cosmetology Examining Board

Ch. BC 1

- S. BC 1.01 (1m), (3), (3r), (6e) to (9), (11) to (11w) and (13t)

Ch. BC 2

- S. BC 2.025 (2), (2g), (2r), (3) and (6)
- S. BC 2.07 (1g)

Ch. BC 3

- S. BC 3.01 (7)
- S. BC 3.02 (1) (a) to (c)
- S. BC 3.06 (2)

Ch. BC 4

- S. BC 4.01 (2) and (8)
- S. BC 4.02 (1)
- S. BC 4.03 (2)
- S. BC 4.06 (3)
- S. BC 4.07 (intro.) and (2)
- S. BC 4.08
- S. BC 4.09 (3m)

Ch. BC 5

- S. BC 5.02 (Figure)
- S. BC 5.06 (Figure)

Ch. BC 6

- S. BC 6.03 (1) (Figure)
- S. BC 6.04 (3) (Figure)

Ch. BC 8 (Entire chapter)

Chiropractic Examining Board

Ch. Chir 4

- S. Chir 4.05 (1) (d)

Ch. Chir 5

S. Chir 5.01 (1) (f) and (g)

Ch. Chir 6

S. Chir 6.02 (31)

Ch. Chir 12 (Entire chapter)**Commerce****Ch. Comm 5**

S. Comm 5.003 (27w)

S. Comm 5.32 (3m) (a) and (b)

S. Comm 5.323 (5) (g), (6) (f) and (h)

S. Comm 5.325 (4) (a)

S. Comm 5.327

S. Comm 5.63 (1) (a), (5m)

Emergency Management**Ch. WEM 7 (Entire chapter)****Ch. WEM 8 (Entire chapter)****Health and Family Services****Ch. HFS 62 (Entire chapter)****Ch. HFS 75**

S. HFS 75.01 (2)

S. HFS 75.02 (1m), (7), (33m), (34) and (82)

S. HFS 75.03 (1) and (2)

S. HFS 75.13 (2m)

S. HFS 75.16

Ch. HFS 110

S. HFS 110.01

S. HFS 110.02

S. HFS 110.03 (10), (18), (19), (20), (22), (23), (35), (38), (42m), (49), (52) and (54)

S. HFS 110.04 (1) (b) and (d)

S. HFS 110.045 (4) (a)

S. HFS 110.05 (1) and (d) and (f), (2), (3) (a) and (b), (4) and (c) and (e), (5) (b) to (f), (6) (a) and (e)

S. HFS 110.06 (2m), (3), (4) (b) and (5)

S. HFS 110.07 (1) (a) to (c), (e) and (f), (3) (a) to (e) and (5)

S. HFS 110.08 (1), (2) (f), (h), (i), (o), (q), (3) (a), (4) (a) and (b), (5) and (6) (a) and (b)

S. HFS 110.09 (1) (a), (g) and (i), (2), (3), (5) and (6)

Ch. HFS 111

S. HFS 111.01

S. HFS 111.02

S. HFS 111.03 (1), (8), (11), (11m), (12), (13), (13m), (14), (15m), (16), (25), (27), (28), (32), (35), (36), (39), (43) and (44)

S. HFS 111.04 (1) (e), (f) and (h), (2) (a) and (b), (3), (4) and (a), (b) and (bm), (5) (b), (c), (d), (e), (f) and (g)

S. HFS 111.045

S. HFS 111.05 (1) and (e), (2), (3) (a) and (b), (4) (a) and (b)

S. HFS 111.06 (1) (a) to (e), (2) (a), (bm), (c), (d) and (dm), (3) (a) to (d) and (4)

S. HFS 111.07 (1) (a) and (b), (2) (e), (f), (i), (j), (o), (q) and (u), (3) (a), (b) and (c), (4) (a) to (c) and (d), (5)

and (a) to (c), (6) and (a) to (c) and (d), (7) (a), (8) (a), (9) (a) and (b) and (10)

S. HFS 111.08 (1) (a), (g), (h), (2) (a), (3), (5) and (6)

Ch. HFS 137 (entire chapter)**Natural Resources****Ch. NR 45**

S. NR 45.04 (1) (g)

Ch. NR 102

S. NR 102.10 (1) (f)

S. NR 102.11 (1) (d)

Ch. NR 135

S. NR 135.02 (1), (2) and (3) (g)

S. NR 135.03 (7), (8m), (9m), (9n), (17m), (18), (19) and (20)

S. NR 135.09 (1)

S. NR 135.10

S. NR 135.16

S. NR 135.17 (3) (a)

S. NR 135.18

S. NR 135.19 (1), (2), (4) (a), (j), (6) and (7)

S. NR 135.20 (1), (2) (intro.), (3) (a) and (4)

S. NR 135.21

S. NR 135.32 (1) and (2)

S. NR 135.36 (2)

S. NR 135.37 (intro.) and (4)

S. NR 135.39 (1) to (5) and (7)

S. NR 135.47 (3) (a) and (6)

S. NR 135.52

S. NR 135.56 (1) and (2)

S. NR 135.61

Ch. NR 140

S. NR 140.10

Ch. NR 340

S. NR 340.055 (intro.), (1) and (3) to (7)

Ch. NR 439

S. NR 439.08 (1) (c) to (f) and (2) (b)

S. NR 439.085 (2) (a), (b) and (c)

Ch. NR 460

S. NR 460.02 (intro.), (1) (a), (5) and (40)

S. NR 460.03 (3) (dm) and (f) to (h)

Ch. NR 462 (entire chapter)**Ch. NR 484**

S. NR 484.04 (15), (18), (20m), (24m)

S. NR 484.06 (4) (c) to (e)

S. NR 484.10 (3), (7), (8), (26m), (30), (33), (42),

(47L), (47m), (55p), (55t), (55x), (56d), (56h), (56p) and (56t)

S. NR 484.11 (6) (b)

Regulation and Licensing**Ch. RL 80**

S. RL 80.03 (1a), (1b), (3), (4m), (7g), (9), (10), (13)

Ch. RL 81

S. RL 81.01

S. RL 81.02 (intro.), (3), (6) and (7)

S. RL 81.03 (1) (intro.), (c), (2) (intro.) and (a)

S. RL 81.04 (1) (c)

Ch. RL 82

S. RL 82.01 (6)

Ch. RL 83

S. RL 83.01 (3) (intro.), (a), (b), (f), (3m), (4) (a) and (b)

S. RL 83.02 (2)

Ch. RL 84

S. RL 84.01 (1), (2), (5), (6), (7) (b), (c), (e), (9) (d), (e), (12) and (13)

SS. RL 84.02 to 84.04

Ch. RL 85

S. RL 85.01 (1), (1m), (2), (3) and (5)

S. RL 85.02 (1), (2), (6), (7), (8) (b), (c), (e), (10) and (11)

Ch. RL 86

S. RL 86.01 (1), (2), (4), (10) and (11)

Ch. RL 87

S. RL 87.01

S. RL 87.02 (1), (2) (intro.), (b) and (c)

Revenue**Ch. Tax 1**

S. Tax 1.15

Ch. Tax 2

S. Tax 2.39 (1), (2) (a), (b) and (e), (3), (6) (a) to (c) and (7)

Workforce Development**Ch. DWD 12**

S. DWD 12.17 (2) (a)

Ch. DWD 16

S. DWD 16.04

S. DWD 16.08 (1) and (3) to (6)

Ch. DWD 17

S. DWD 17.01

S. DWD 17.02 (5) to (7), (7m), (8), (8m) and (9m)

S. DWD 17.03 (1), (1m), (2) (a) to (c), (3) and (4)

S. DWD 17.04 (1) (intro.), (a), (cg), (cr) and (d), (2) and (3)

S. DWD 17.06

S. DWD 17.07 (1) and (2)

Ch. DWD 55

S. DWD 55.03

Ch. DWD 56

S. DWD 56.04 (1) (b)

S. DWD 56.08 (2) (c) to (f)

Ch. DWD 59

S. DWD 59.03 (6) (a)

S. DWD 59.04 (1) and (2)

S. DWD 59.05 (intro.) and (4) (a)

S. DWD 59.06 (3)

S. DWD 59.07 (1), (2) (a) and (d)

Ch. DWD 218

S. DWD 218.01

S. DWD 218.03 (2)

S. DWD 218.08 (3)

S. DWD 218.19 (1)

S. DWD 218.24 (2)

S. DWD 218.25

Ch. DWD 220

S. DWD 220.02 (11)

S. DWD 220.04 (3)

S. DWD 220.11 (1)

S. DWD 220.22 (1)

S. DWD 220.25

Ch. DWD 221

S. DWD 221.03 (2)

S. DWD 221.20 (1)

S. DWD 221.23

Ch. DWD 223 (Entire chapter)**Ch. DWD 224**

S. DWD 224.03 (2)

S. DWD 224.09 (3)

S. DWD 224.20 (1)

S. DWD 224.23 (2)

S. DWD 224.24

Ch. DWD 225

S. DWD 225.01 (1) (m)

S. DWD 225.06 (2)

S. DWD 225.12 (3)

S. DWD 225.23 (1)

S. DWD 225.26 (2)

S. DWD 225.27

Editorial corrections

Corrections to code sections under the authority of s. 13.93 (2m) (b), Stats., are indicated in the following listing.

Agriculture, Trade & Consumer Protection**Ch. ATCP 29**

S. ATCP 29.54 (6)

Ch. ATCP 50

S. ATCP 50.01 (35)

Ch. ATCP 105

S. ATCP 105.02 (1)

Natural Resources**Ch. NR 140**

S. NR 140.22 Table 4

Revenue**Ch. Tax 2**

S. Tax 2.49 (4) (zm)

Workforce Development**Ch. DWD 12**

S. DWD 12.15 (3) (b)

Errata

Items reprinted to correct printing errors such as dropped copy (or other errors) are indicated in the following listing:

Employment Relations Commission

- Ch. ERC 18**
- Ch. ERC 19**
- Ch. ERC 33**

Natural Resources

- Ch. NR 664**
- Appendix VI

Executive orders

The following are recent Executive Orders issued by the Governor.

Executive Order 173. Relating to a proclamation that the flag of the United States and the flag of the State of Wisconsin be flown at half-staff as a mark of respect for Sergeant Luke Zimmerman of the United States Marine Corps who lost his life during Operation Iraqi Freedom.

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